

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DANIEL JOYCE,
Individually and on behalf of a class of others
similarly situated,

Plaintiff,

v.

JOHN HANCOCK FINANCIAL SERVICES,
INC. SEVERANCE PAY PLAN and JOHN
HANCOCK FINANCIAL SERVICES, INC., as
Administrator and Fiduciary of the John Hancock
Financial Services, Inc. Severance Pay Plan,

Defendants.

Civil Action No. 05-11428-WGY

SUPPLEMENTAL APPENDIX IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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Services, Inc. Severance Pay Plan and John
Hancock Financial Services, Inc.*

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Beacon Capital Partners Management, LLC

Employee Handbook

EMPLOYEE HANDBOOK**TABLE OF CONTENTS**

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Welcome to Beacon Capital Partners Management, LLC !

You are now a member of our family and we are delighted to have you as part of our team. You have been asked to join us because we believe you will contribute to the Company's commitment to high quality customer service and employee teamwork.

You will see in this Handbook that we value our employees. The greatness of our Company is based on the respect we all have for each other and for our guests. In the time that we work together, we will help each other grow, we will make new friends, and we will learn from each other.

This Handbook outlines many of the policies and procedures of our workplace and will help you to orient yourself to your position. Reading this handbook, you will be assured a good start to achieving a positive experience in your job. Please read it carefully and feel free to discuss with your Supervisor any parts that you do not understand.

I personally look forward to meeting you and welcoming you to a great company. I ask that you commit to giving that little bit extra to always go above and beyond the expectations of our customers. Take pride in our workplace and help us be the best that we know we can be.

Again, congratulations and a warm welcome.

**Janice Brochu
Vice President of Human Resources**

I. GENERAL POLICIES

1.1. INTRODUCTION

Embarking on a new employment relationship is exciting, and we believe that you will find being a part of the Beacon Capital Partners Management, LLC team interesting, challenging and rewarding. This Employee Handbook has been developed to help you get acquainted with the Company and to answer many of your initial questions.

As part of the Beacon team, the importance of your contribution cannot be overstated. Our goal is to provide the finest-quality services to our clients and to do this efficiently and economically.

You are an important part of this process for your work directly influences the Company's reputation.

The Company has provided you with this Employee Handbook to familiarize you with the Company's practices and procedures. This Handbook sets forth general guidelines and is provided simply to answer some of the questions you may have regarding your employment and benefits. While this Handbook reflects current personnel policies and practices, it is not a contract or part of a contract between you and the Company. The Company reserves the right to revise or rescind unilaterally any of the provisions of this Handbook at any time to reflect changes in Company practices and procedures or changes in the law.

Employment at the Company is at-will. In other words, either you or the Company may terminate your employment at any time and for any reason. No employee or officer of the Company has the authority to modify the at-will nature of your employment, except that the President may do so on behalf of the Company, but only through a formal written contract signed by you and the President.

In some instances, this Handbook briefly describes certain benefits available to Company employees, such as insurance benefits and leaves of absence. Separate materials which are available from the Human Resources Department describe those benefits in more detail and will govern to the extent that there may be inconsistencies between this Handbook and those materials. If you have any questions about any of the subjects described in this Handbook, please contact the Human Resources Department.

1.2. EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Company is committed to providing equal opportunity for all employees and applicants without regard to race, color, religion, sex, sexual orientation, age, national origin, disability or veteran status. The Company's policy regarding equal employment opportunity applies to all aspects of employment, including recruitment, hiring, job assignments, promotions, working conditions, scheduling, benefits, wage and salary administration, disciplinary action, termination, and social, educational and recreational programs.

The Company will not tolerate any form of unlawful discrimination. All employees are expected to cooperate fully in implementing this policy. In particular, any employee who believes that any other employee of the Company may have violated the Equal Employment Opportunity Policy should report the possible violation to the Human Resources Department. If it appears that the reported circumstances would, if true, constitute a possible violation of the Equal Employment Opportunity Policy, the Company will promptly investigate the allegations, typically through interviewing appropriate persons. To the extent feasible, only individuals whom the Company determines have a need to know will be informed of the allegations. All such persons will be requested to treat the matter confidentially. In the event that the Company determines that this policy has been violated, the Company may take disciplinary action against any violator, up to and including discharge from employment. This is not intended to restrict the Company's right to take disciplinary action against anyone who engages in inappropriate conduct that does not rise to the level of a violation of this policy. Regardless of the Company's determination regarding whether the reported conduct constitutes a violation of the Equal Employment Opportunity Policy, the Company will not take action against an employee for making a good faith report of a possible violation of the Equal Employment Opportunity Policy.

1.3. *DISCRIMINATION AND HARASSMENT POLICY*

The Company is committed to maintaining a working environment which is free from discrimination and sexual harassment as well as all other types of discriminatory harassment. It is our goal to provide equal employment opportunities for all employees, to prevent any unlawful discrimination or harassment of any individual working at or with the Company, and to provide a mechanism by which individuals can bring any concerns about discrimination or harassment to the Company's attention. Therefore, the Company will not accept or tolerate any discrimination or different treatment of, by, or among employees, clients, suppliers or visitors based upon the following characteristics: gender, race, color, religion, sexual orientation, national origin, ancestry, disability, age or veteran status. Discrimination or harassment in all of these forms violates both the spirit of equal opportunity and the rights of the individual. To reinforce our commitment, the Company has developed a policy against discrimination and harassment and a reporting procedure for employees who have been subjected to or witnessed harassment. The Company's policy regarding discrimination and harassment applies to all aspects of employment, including recruitment, hiring, job assignments, promotions, working conditions, scheduling, benefits, wage and salary administration, disciplinary action, termination, and social, educational and recreational programs.

1.4. *PROHIBITION OF HARASSMENT*

Harassment covers a range of behaviors, including subtle and not-so-subtle verbal and non-verbal behavior. It can be engaged in or experienced by both males and females. Harassment will not be tolerated in any form at any level.

Specifically, it is against the Company's policy for any employee to engage in verbal or physical conduct that denigrates or shows hostility or aversion towards an individual because of gender, race, color, religion, sexual orientation, national origin, ancestry, disability, age or other protected category and that:

- Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- Otherwise adversely affects an individual's employment opportunities.

Examples of discriminatory harassing conduct may, depending on the circumstances, include: (1) epithets, slurs, negative stereotyping, threats, or intimidating or hostile acts that relate to race, color, gender, religion, sexual orientation, age, national origin or disability or (2) written or graphic material that denigrates or shows hostility towards an individual or group because of gender, race, color, religion, sexual orientation, national origin, ancestry, disability or age and that is circulated in the workplace, or placed anywhere in the Company's premises, such as on an employee's desk or workspace or on Company equipment or bulletin boards.

While all types of harassment are prohibited, sexual harassment requires particular attention. The Company's policy against sexual harassment prohibits sexual advances or requests for sexual favors from an employee, or engaging in any other physical or verbal conduct of a sexual nature when:

- Submission to such conduct is made an express or implicit condition of employment;
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual who submits to or rejects such conduct; or
- Such conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

While it is not possible to list all of the circumstances which would constitute sexual harassment, the following are some examples: (1) unwelcome sexual advances -- whether they involve physical touching or not; (2) requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment; or (3) coerced sexual acts.

Depending on the circumstances, the following conduct may also constitute sexual harassment: (1) use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, foul or obscene language or gestures; (2) sexually-oriented comments about an individual's body, comments about an individual's sexual activity, deficiencies, or prowess; (3) displaying sexually suggestive objects, pictures, cartoons; (4) unwelcome leering, whistling, petting, pinching, deliberate brushing against the body in a suggestive manner; (5) sexual gestures, sexual innuendoes, suggestive or insulting comments; (6) inquiries into one's sexual experiences; (7) discussion of one's sexual activities; or (8) dissemination of sexually explicit voicemail, e-mail, graphics, downloaded material, or websites in the workplace.

While such behavior, depending on the circumstances, may not be severe or pervasive enough to create a sexually hostile work environment, it can nonetheless make co-workers uncomfortable. Accordingly, such behavior is inappropriate and may result in disciplinary action regardless of whether it is unlawful.

Consensual sexual relationships will not be tolerated when one of the individuals is in a position to evaluate or influence the work performance or reemployment of the other. Such relationships may give rise to a conflict of interest, are potentially exploitative and may affect the environment for other employees or the manner in which they are treated. If a Supervisor/Subordinate sexual relationship develops, the Supervisor must immediately take steps to remove himself or herself from the supervisory responsibility over the other person. Failure to do so may result in termination.

This Discrimination and Harassment Policy applies at the workplace as well as any work-related setting outside the workplace such as during business trips, on office outings, at parties and business related social events. This Policy also covers other individuals who have a relationship with the Company which enables the Company to exercise some control over the individual's conduct in places and activities that relate to the Company's work (e.g., directors, officers, contractors, vendors, customers, etc.). This Policy also applies to communications and materials sent or received electronically (including electronic mail system and voicemail) or via facsimile.

1.5. REPORTING OF HARASSMENT

If you believe that you have experienced or witnessed sexual harassment or other discriminatory harassment, you should report the incident immediately to your supervisor or to Janice Brochu, Vice President of Human Resources. If for any reason you feel uncomfortable reporting an incident to your supervisor or Ms. Brochu, you may report an incident to William A. Bonn, Senior Vice President and General Counsel. Supervisors who receive reports will in turn report them to the Vice President of Human Resources. Ms. Brochu or her designee will promptly and thoroughly investigate all such reports as discreetly and confidentially as practicable under the circumstances. However, it may be necessary to discuss allegations of harassment with the accused individual or with other employees to conduct a thorough investigation, to determine whether harassment occurred, or to determine what action to take against the offending individual. In that case, only individuals who the Company determines have a need to know will be informed of the allegations and they will be instructed to treat the matter confidentially.

In certain situations, you may feel that the appropriate response to particular offensive conduct is either to stop it while it is happening, or to speak to the offending person later and explain that the conduct was offensive. This approach may be most appropriate when it appears that the offending person may not be aware that the conduct is offensive or is operating on the mistaken assumption that the conduct is not unwelcome. Self-help can be an effective means for stopping offensive behavior in a firm yet tactful manner.

If the Company determines that a violation of this policy has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including appropriate disciplinary action against the offending party, which can include counseling, warnings, transfers, suspension, probation and termination.

It is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint of sexual harassment.

Employees who report violations of this policy and employees who cooperate in investigations into alleged violations of this policy will not be retaliated against in any way. Even if no violation is found after an investigation, no action will be taken against the reporting employee as a result of the report.

The Company recognizes that the question of whether a particular course of conduct constitutes a violation of this policy requires a factual determination. The Company also recognizes that false accusations have serious effects on innocent persons. If, after investigation, it is clear that a person who has accused another of violating this policy has maliciously or recklessly made a false accusation, the accuser will be subject to appropriate remedies which can include counseling, warnings, transfers, suspensions, probation and termination. It is important to note, however, that the fact that allegations are not substantiated or are determined not to constitute a violation of this policy does not mean that the allegations were made falsely.

Beacon hopes that employees will bring any concerns about sexual or other discriminatory harassment to the Company's attention and has instituted this policy and reporting procedure so that employees' concerns can be addressed promptly. Please see below for agencies responsible for enforcing discrimination and harassment laws in the various states in which we do business.

Adherence to this policy is a condition of each employee's employment. Any questions regarding this policy should be directed to Janice Brochu, Vice President of Human Resources.

The state agencies responsible for enforcing the laws prohibiting harassment include:

Massachusetts

Massachusetts Commission Against Discrimination
One Ashburton Place, Boston, MA 02108
(617) 727-3990

The agency responsible for enforcing federal laws prohibiting harassment is the Equal Employment Opportunity Commission:

Massachusetts

Boston Area Office
One Congress Street, 10th Floor, Room 1001, Boston, MA 02114
(617) 565-3200

II. HOURS OF EMPLOYMENT

2.1. *ATTENDANCE*

The Company counts on you to be at work when scheduled so that we can provide high quality service to our clients. Prompt and regular attendance is therefore required of all employees. While the Company understands that employees may have to be absent from work occasionally due to illness and personal emergencies, you should remember that your absence creates additional burdens for your co-workers and for our business. All employees are therefore expected to work a full scheduled work day, unless otherwise authorized by their supervisor.

If you are going to be late or absent, you must call and notify your supervisor no later than your scheduled starting time. If you are prevented from doing so by an emergency, you must notify your supervisor as soon as possible thereafter. Your failure to notify your supervisor of an absence, tardiness or early departure as outlined could result in disciplinary action, up to and including termination of employment. Any time that you are out of work, your supervisor or Human Resources may request that you bring in a doctor's note upon your return to work attesting to the medical need for your absence and your ability to return to work. If you are absent for more than three days without notifying your supervisor directly, you will be considered to have voluntarily resigned from your job.

Unexcused absenteeism or tardiness will not be tolerated and will result in discipline up to and including termination. Despite receipt of appropriate notification, employees may be disciplined or terminated for frequent, chronic or a pattern of absences, tardiness or early departure (unless covered by the FMLA).

2.2. *WORKWEEK*

Regular work hours may vary from department to department and may be changed at the discretion of the Company. Your supervisor will inform you of your regular schedule and of your meal break period. If you have any questions about your hours or schedule, contact your supervisor.

2.3. *MEAL AND REST BREAKS*

Meal and rest breaks will be scheduled by your supervisor.

2.4. *TIME CARDS*

Federal and state wage and hour laws require that the Company keep an accurate record of time worked for every non-exempt employee. Therefore, all non-exempt employees must complete time cards on a daily basis. Time cards are to be submitted weekly to supervisors for approval and signature. Falsification of time cards or filling out another employee's time card is a serious violation of Company policy and may result in immediate discharge.

2.5. SHIFT DIFFERENTIAL

Non-exempt employees who work during the hours of 9:00 p.m. to 7:00 a.m. are entitled to a shift differential for that portion of the shift which covers the specified period.

2.6. OVERTIME

Because of the nature of the Company's business, employees may be required to work overtime. While the Company will generally try to give employees advance notice of the need for overtime, business needs may not make advance notice possible. If you have problems working assigned overtime, you must notify your supervisor as soon as possible to determine if other arrangements can be made. All overtime must be approved in advance by supervisors.

Non-exempt employees will be paid one and one-half times their regular hourly rate of pay for each hour worked in excess of 40 in a given workweek. Only hours actually worked by non-exempt employees will count towards an employee's overtime entitlement. Accordingly, hours paid for time not worked, such as vacation, sick time and holidays, will not be counted as time worked in computing any overtime entitlement.

2.7. INCLEMENT WEATHER

If you believe weather conditions in your area make it impossible to report to work, please notify your supervisor as soon as possible. Your supervisor may excuse you from work and either allow you a vacation day if accrued or may determine that the absence is without pay. It is important that you speak with your supervisor personally so that alternate staffing arrangements can be made. The same applies should you desire to leave work due to inclement weather.

As always, the Company is concerned for the safety of its employees as well as providing quality services to its clients. Good judgment on the part of all concerned must be exercised.

2.8. VOTING TIME

The Company encourages voting in all local, state and national elections. If your working hours make it impossible to get to the polls before or after work, please speak to your supervisor beforehand. If necessary, you may arrange to come in late or leave early to get to the polls.

III. PERFORMANCE AND DEVELOPMENT

3.1. *THE INTRODUCTORY PERIOD*

Up to the first 90 calendar days of your employment is an introductory period. It is designed to give you a chance to become familiar with the Company and learn your job for a period of up to 90 days. It also gives your Supervisor a chance to work with you while you learn about your job, and evaluate your performance. During this period, you may be placed in different tasks if needed.

The introductory period is just that - - an introduction. At times, the Company finds that an individual does not possess the required knowledge or skills to perform the job, is unable to adapt to the work or is not conforming to prescribed standards of performance. Thus, the Company may terminate an individual's employment at any time during the introductory period with or without notice, or even after its completion with or without notice. Completion of the introductory period is not, nor should it be seen as, unqualified acceptance by the Company of your performance or an assurance of continued employment.

3.2. *PERFORMANCE REVIEWS*

Employees will generally receive a performance review at the end of their 90-day introductory period. At that time, you will either become a regular employee, have your introductory period continued for a period of time, or be terminated.

For all other employees, the Company generally conducts performance reviews annually. Performance reviews may be held more frequently if an employee's job classification or performance changes significantly or if a supervisor determines that more frequent reviews may be necessary or helpful. In addition, your supervisor may informally discuss your performance with you at any other time. You should also feel free to discuss your performance with your supervisor at any time.

Performance reviews are an evaluation of how well you performed your work. They provide you and your supervisor with an opportunity to review what you have accomplished and to identify areas which need improvement. Among the factors that may be addressed in the performance review are: quality and quantity of work; job knowledge and skill; attitude about your job, the Company and other employees; ability to work cooperatively; compliance with Company standards and policies; dependability; enthusiasm and attendance.

Merit salary increases may be given at the time of annual performance reviews, but are not guaranteed. Any salary increases will be at the Company's discretion and will depend on factors such as an employee's job performance and business conditions.

3.3. *OPPORTUNITIES FOR ADVANCEMENT*

The Company seeks to offer advancement opportunity to its employees and encourages them to apply for available jobs for which they are qualified. In some instances, the Company may recognize superior performance by promoting employees within their current job. Factors

the Company considers in promoting employees either into a new position or within their job category will vary with the job but may include work performance, quality of work, job knowledge and skill, ability, attitude, attendance and length of service. Of course, the Company reserves the right to select the candidate it believes is best qualified from within or outside the Company, and may choose not to seek internal candidates for some positions.

3.4. *JOB POSTINGS*

The Company generally, but not always, posts open positions on Company bulletin boards. If you wish to be considered for a posted position, you should first notify your supervisor and then apply promptly to the department manager who posted the position. You are eligible to apply for posted positions after you have completed six months in your current assignment. In the Company's sole discretion, posted positions may be filled from inside or outside the Company.

IV. EMPLOYEE BENEFITS

4.1. *VACATION*

A. Accrual

The Company recognizes that all employees need a period of time for rest and relaxation. Eligible employees will accrue vacation on a pro-rata basis throughout the calendar year upon completion of their introductory period. Each fulltime employee is entitled to three weeks (15 days) of vacation per calendar year. Vacation will accrue at the rate of ten hours per month. Vacation may not be taken before it is accrued, except that during calendar year 2003, employees may use up to one week of vacation beginning on their first day of employment.

Vacation requests must be approved by your supervisor, and generally will be approved on a first-come, first-served basis. You are encouraged to seek vacation approval well ahead of the date vacation is desired. In the Company's sole discretion, vacation time may be denied for business reasons.

Eligible employees should use all of their accrued vacation each year, but may carry over up to a maximum of five (5) vacation days into the next calendar year. (Eligible employees will not be paid for any unused vacation days at the end of the calendar year.) Eligible employees will be paid for any unused, accrued vacation at the time of their separation from employment.

4.2. *SICK TIME*

All full-time employees are eligible for up to 10 paid sick days per calendar year. Eligible employees will accrue sick days quarterly on a pro-rata basis throughout the calendar year. Each sick leave day is equal to seven hours and 30 minutes of straight time for full-time employees (or 8 hours of straight time, depending upon the employee's work schedule). Part-time employees who are normally scheduled to work a minimum of 20 hours per week (not counted for purposes of overtime) will be eligible to accrue paid sick leave on a prorated basis.

Sick days may be used by employees for their own or dependent's illness. Employees who are absent more than 10 sick days per year due to illness or injury will not be paid for those days, unless the employee is eligible for payment pursuant to one of the leave of absence policies. Sick leave can be used during the year in which it is credited and cannot be carried forward from year to year. Employees will not be paid for unused sick leave upon separation from employment for any reason.

In the case of illness, you should notify your supervisor or manager directly prior to the start of your regular shift on each day of your illness. The Company may require medical documentation verifying the illness or injury or prior to an employee's return to work. The Company may also require the employee to be examined by a medical professional selected by the Company.

If your illness or injury exceeds 10 calendar days or you are hospitalized immediately, you may be eligible for short-term disability benefits. Short-term disability benefits will be coordinated with your available sick leave, if appropriate. Contact the Human Resources Department for additional information and assistance.

Sick leave is only to be used for genuine instances of illness or injury. Abuse of the sick leave policy or excessive absenteeism, as determined by the Company, may result in discipline up to and including termination.

4.3. HOLIDAYS

The Company observes 12 designated holidays each year. These are:

New Year's Day
Martin Luther King, Jr. Day
President's Day
Patriot's Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day
Day after Christmas

To qualify for payment of these holidays, you must work your last scheduled work day before the holiday and your next scheduled work day after the holiday. Some employees may be required to work on a holiday. In the event that this happens, non-exempt employees will receive eight hours of holiday pay and their regular pay for the hours that they actually worked.

4.4. PERSONAL DAYS

The Company provides all employees with 2 personal days per calendar year to attend to personal business. Personal days cannot be carried forward and unused personal days are not paid upon separation from employment. The scheduling of personal days is subject to the operating needs of your department. Employees are asked to give as much advance notice as possible when they are requesting a personal day.

4.5. 401(K) PLAN

The Company maintains a voluntary 401(k) Savings Plan to help employees supplement their retirement income. Details are set forth in the Summary Plan Description.

4.6. MEDICAL AND DENTAL INSURANCE

The Company currently offers a choice of two health insurance plans through BlueCross BlueShield—HMO Blue and Blue Choice. Details are set forth in the Summary Plan Descriptions.

The Company offers a combined dental and vision plan. Details are set forth in the Summary Plan Descriptions.

4.7. LIFE INSURANCE AND AD&D INSURANCE

The Company currently offers generous life insurance and accidental death and dismemberment insurance. Subject to the terms of the policy itself, employees are generally eligible for a benefit of up to two times their basic annual earnings with a maximum of \$500,000. Additional details are set forth in the Summary Plan Description.

4.8. SHORT-TERM DISABILITY

Subject to the terms of the plan, employees may be eligible for short term disability benefits of up to 60% of weekly earnings (maximum \$2,000) for a period of up to 26 weeks, after a 14 day waiting period. Additional details are set forth in the Summary Plan Description.

To be eligible for salary continuation, employees must be on an approved leave of absence and must comply with all requirements for that leave. The Company may require medical documentation it deems necessary to verify the employee's illness or injury and inability to attend work. The Company reserves the right to grant the employee time off from work but deny the employee's request for short-term disability payments.

Employees who are unable to attend work due to a work-related illness or injury are not eligible for short-term disability payments and may apply for workers' compensation. The fact that an employee has been approved for and/or is receiving short-term disability payments does not entitle the employee to any job protection or reinstatement rights.

4.9. LONG-TERM DISABILITY

Subject to the terms of the plan, employees may be eligible for long-term disability benefits of up to 60% of monthly earnings (maximum \$7,500). Employees must be disabled, as defined by the policy, for a period of 180 days before payments may commence. Additional details are set forth in the Summary Plan Description.

The fact that an employee has been approved for and/or is receiving long-term disability payments does not entitle the employee to any job protection or reinstatement rights.

4.10. WORKERS' COMPENSATION

The Workers' Compensation Act provides that certain benefits be paid in the event of injuries or illnesses arising out of and in the course of employment. The cost of workers' compensation is paid entirely by the Company and provides coverage for all employees.

4.11. TUITION REIMBURSEMENT

Employees will be eligible for reimbursement of certain expenses incurred in connection with obtaining or maintaining required licenses and certifications with the prior written approval of management.

4.12. OTHER BENEFITS

(a) Stay Fit Benefit

The Company offers each employee \$150 towards a gym membership at FitCorp in the Hancock Building. Please see Human Resources for more details.

(b) Flexible Spending Accounts

Employees may contribute to a health care flexible spending account and dependent care flexible spending account. Please see Human Resources for more details.

(c) Parking Discount

Employees are currently eligible for a parking discount. Please see Human Resources for more details.

(d) MBTA Transit Pass

Please see Human Resources for more details.

(e) Direct Deposit

Employees may have their paycheck automatically deposited into their checking or savings account. Please consult Human Resources for further details.

V. LEAVES OF ABSENCE

5.1. POLICY ON FAMILY AND MEDICAL LEAVES

(a) Eligibility. You are eligible to take up to 12 weeks of unpaid family/medical leave within any 12 month period and be restored to the same or an equivalent position upon your return from leave provided you: (1) have worked for the Company for at least 12 months, and for at least 1250 hours in the last 12 months; and (2) are employed at a worksite that has 50 or more employees within 75 miles.

(b) Reasons for Leave. You may take family/medical leave for any of the following reasons: (1) the birth of a son or daughter and in order to care for such son or daughter; (2) the placement of a son or daughter with you for adoption or foster care and in order to care for the newly placed son or daughter; (3) to care for a spouse, son, daughter, or parent ("covered relation") with a serious health condition; or (4) because of your own serious health condition which renders you unable to perform an essential function of your position. Leave because of reasons "1" or "2" must be completed within the 12 month period beginning on the date of birth or placement. In addition, spouses employed by the Company who request leave because of reasons "1" or "2" or to care for an employee's parent with a serious health condition may only take a combined total of 12 weeks leave during any 12 month period.

(c) Notice of Leave. If your need for family/medical leave is foreseeable, you must give the Company at least 30 days prior written notice. If this is not possible, you must at least give notice as soon as practicable (within 1 to 2 business days of learning of your need for leave). Failure to provide such notice may be grounds for delay of leave. Additionally, if you are planning a medical treatment you must consult with Human Resources first regarding the dates of such treatment. Where the need for leave is not foreseeable, you are expected to notify the Company within 1 to 2 business days of learning of your need for leave, except in extraordinary circumstances. The Company has Request for Family/Medical Leave forms available from the Human Resources Department. You should use these forms when requesting leave.

(d) Medical Certification. If you are requesting leave because of your own or a covered relation's serious health condition, you and the relevant health care provider must supply appropriate medical certification if the leave is expected to continue for more than three calendar days. You may obtain Medical Certification Forms from the Human Resources Department. When you request leave, the Company will notify you of the requirement for medical certification and when it is due (at least 15 days after you request leave). If you provide at least 30 days notice of medical leave, you should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided.

The Company, at its expense, may require an examination by a second health care provider designated by the Company, if it reasonably doubts the medical certification

you initially provide. If the second health care provider's opinion conflicts with the original medical certification, the Company, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. The Company may require subsequent medical recertification. Failure to provide requested certification within 15 days, if such is practicable may result in delay of further leave until it is provided.

(e) Reporting While on Leave. If you take leave because of your own serious health condition or to care for a covered relation, you must contact Human Resources on the first and third Tuesday of each month regarding the status of the condition and your intention to return to work. *In addition, you must give notice as soon as practicable (within 2 business days if feasible) if the dates of leave change or are extended or initially were unknown.*

(f) Leave Is Unpaid. Family/medical leave is unpaid leave (although you may be eligible for short or long term disability payments and/or workers' compensation benefits under those insurance plans. These plans are described elsewhere in the handbook.). If you request leave because of a birth, adoption, or foster care placement of a child, any accrued paid vacation, personal leave, or family leave first will be substituted for unpaid family/medical leave. If you request leave because of your own serious health condition, or to care for a covered relation with a serious health condition, any accrued paid vacation, personal leave, family, or medical/sick leave first will be substituted for any unpaid family/medical leave. The substitution of paid leave time for unpaid leave time does not extend the 12-week leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in your receipt of more than 100% of your salary.

(g) Medical and Other Benefits. During an approved family/medical leave, the Company will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the Company will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, you must pay your health care premiums on a weekly basis as if actively employed. Your health care coverage will cease if your premium payment is more than 30 days late. If your payment is more than 30 days late, we will send you a letter to this effect. If we do not receive your co-payment within 15 days of this letter, your coverage may cease. If you elect not to return to work for at least 30 calendar days at the end of the leave period, you will be required to reimburse the Company for the cost of the health benefit premiums paid by the Company for maintaining coverage during your unpaid leave, unless you cannot return to work because of a serious health condition or other circumstances beyond your control.

(h) Intermittent and Reduced Schedule Leave. Leave because of a serious health condition may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) if medically necessary. If leave is unpaid, the Hotel will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced schedule leave, the Company may

temporarily transfer you to an available alternative position which better accommodates your recurring leave and which has equivalent pay and benefits.

(i) Returning from Leave. If you take leave because of your own serious health condition, (except if you are taking intermittent leave) you are required to provide medical certification that you are fit to resume work. You may obtain Return to Work Medical Certification Forms from the Human Resources Department. Employees failing to provide the Return to Work Medical Certification Form will not be permitted to resume work until it is provided.

(j) State & Local Family & Medical Leave Laws & Other Company Policies. Where state or local family and medical leave laws offer more protections or benefits to employees, the protections or benefits provided by such laws will apply.

(k) Definitions. For the purposes of this policy, the following definitions apply:

(i) "Spouse" is defined in accordance with applicable state law of the state where the employee resides, including common law marriage where recognized by the state where the employee resides.

(ii) "Parent" includes biological parents and individuals who acted as your parents, but does not include parents-in-law.

(iii) "Son" or "daughter" includes biological, adopted, foster children, stepchildren, legal wards, and other persons for whom you act in the capacity of a parent and who are under 18 years of age or over 18 years of age but incapable of caring for themselves because of a physical or mental disability.

(iv) "Serious health conditions" means an illness, injury, impairment, or physical or mental condition which involves: (1) "Inpatient care," meaning an overnight stay in a hospital, hospice or residential care facility, including any period of "incapacity" or any subsequent "treatment" in connection with such inpatient care; or (2) "Continuing treatment" by a "health care provider," meaning an incapacity of more than three consecutive calendar days; and two or more treatments by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders or referral of a health care provider; or (b) one treatment by a health care provider which results in a "regimen of continuing treatment" under the supervision of the health care provider (e.g., prescription medication). Any period of incapacity because of pregnancy or prenatal care (even without treatment by a health care provider during the absence and even if the absence is less than 3 days; e.g., morning sickness); or any period of incapacity because of a "chronic serious condition" (even without treatment by a health care provider during the absence and even if the absence is less than 3 days; e.g., asthma attack, migraine headaches, etc.; or any period of absence to receive multiple treatments by health care providers or

provider if health care services (under order or referral of a health care provider) for reconstructive surgery after an accident, injury or for a condition that would likely result in a period of incapacity of more than 3 consecutive calendar days if untreated (e.g., cancer (chemotherapy); severe arthritis (physical therapy), kidney disease (dialysis)).

(v) *"Continuing treatment"* means: (1) two or more treatments by a health care provider; (2) two or more treatments by a provider of health care services (e.g., physical therapist) on referral by or under orders of a health care provider; (3) at least one treatment by a health care provider which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a program of medication or therapy); or (4) under the supervision of, although not actively treated by, a health care provider for a serious long-term or chronic condition or disability which cannot be cured (e.g., Alzheimer's or severe stroke).

(vi) *"Health care provider"* means (1) an MD or OD licensed by the State (or country in which he/she practices; (2) podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-Ray to exist) authorized to practice under the State law; (3) nurse practitioners and nurse-midwives authorized under State law; (4) Christian Science practitioners (may be required to submit to second or third certification through examination—not treatment of a health care provider); (5) certified social workers; (6) a health care provider also includes a health care provider who practices in a foreign country in accordance with the laws of that country and; (7) any other health care provider from whom the employer or the employee's group health plan benefits managers will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(vii) *"Needed to care for"* a family member encompasses: (1) physical and psychological care of a child, spouse or parent with a serious health condition; and (2) where the employee is needed to fill in for others providing care or to arrange for third party care of a child, spouse or parent who is receiving inpatient or home care.

(viii) The phrase *"unable to perform the functions of his/her job"* means an employee is: (1) unable to work at all; or (2) unable to perform any one of the essential functions of his/her position at the time notice is given or leave commenced, whichever is earlier. The term *"essential functions"* is borrowed from the Americans with Disability Act ("ADA") to mean "the fundamental job duties of the employment position," but does not include the marginal functions of the position.

5.2. **MATERNITY LEAVE**

After three months of service, regular full-time females will be granted 8 weeks of unpaid leave for the birth or adoption of a child under 18 or under 23 if the child is disabled. Upon returning to work, the employee will resume her previous position or similar position without loss of status. This policy runs concurrently with FMLA except where prohibited by law.

5.3. **SMALL NECESSITIES LEAVE ACT**

(a) Eligible Employees: Employees are eligible for 24 hours of unpaid leave per 12-month period under this statute. We will use a "rolling" method to determine the 12-month period. The rolling 12-month period is measured backward from the date the employee uses any leave under the Act. The employee must (1) have been employed for at least 12 months by the employer from whom the leave is requested, and (2) provided at least 1,250 hours of service to the employer during the previous 12-month period.

(b) Purposes for Which the Leave May be Taken: The 24 hours of leave may be taken by an eligible employee for any of the following purposes:

(i) to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;

(ii) to accompany a son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations;

(iii) to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care such as interviewing at nursing or group homes.

(c) Definitions:

(i) The term "*son or daughter*" is defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*. The son or daughter must either be under 18 years of age, or else should be older and incapable of self-care because of mental or physical disability.

(ii) The term "*elderly relative*" is defined as an individual of at least 60 years of age who is related by blood or marriage to the employee.

(iii) The term "*school*" is defined as a public or private elementary or secondary school; a Head Start program assisted under the Head Start Act, 42 U.S.C. paragraph 9831, et seq.; or a children's day care facility licensed under G.L. c. 28A.

(d) Substitution with Vacation/Personal/Sick Leave: The Company will require the employee to substitute any of his/her accrued paid vacation leave, personal leave or sick leave for any of the unpaid leave only when taken in full 8-hour days.

(e) Intermittent Leave: Leave under the Act may be taken intermittently or on a reduced leave schedule. An eligible employee need not take the entire 24 hour leave at once, but may take a few hours of time depending on the employee's needs, as long as the total leave does not exceed 24 hours during the rolling twelve month period. The Company will require that employees take the leave in minimum increments of no less than one (1) hour.

(f) Notice Requirement: To be entitled to the leave period, employees must provide notice to us as follows:

(i) if the need for leave is foreseeable, the employee must request the leave no later than 7 days in advance;

(ii) if the need is not foreseeable, the employee must notify the employer as soon as practicable under the particular circumstances of the individual case.

(g) Certification: The Company will require that a request for leave be supported by a Certification. Certification forms may be obtained in the Human Resources Office or from your Supervisor. The Company reserves the right to require additional certification when it deems necessary.

5.4. MEDICAL RECORDS

Documents relating to medical certifications, recertifications or medical histories of employees or employees' family members will be maintained separately and treated as confidential medical records, except that in some legally recognized circumstances, the records (or information in them) may be disclosed to supervisors and managers, first aid and safety personnel, or government officials.

5.5. PERSONAL LEAVE

Employees who are not eligible for any leave of absence described in this Handbook may be eligible for personal leave. Personal leaves are unpaid and are granted in the sole discretion of the Company. Requests for personal leave will be reviewed on a case-by-case basis. When considering a request for a personal leave, the Company will consider factors such as the employee's position, the employee's length of service, the employee's performance record including attendance, the purpose of the leave, the needs of the department in which the employee works, the effect of the leave on other employees, and the Company's general business needs.

Personal leaves generally are unpaid. However, accrued vacation time may be used to continue an employee's salary during the leave. Vacation and sick time will not continue to

accrue during the leave of absence. Medical and life insurance benefits will continue on the same basis as if the employee were actively working. You must pay your health care premiums on a weekly basis as if actively employed.

The Company cannot guarantee reinstatement upon return from a personal leave. However, the Company will make a reasonable effort to place the employee in an available position for which he or she is qualified. If such a position is not available, then the employee's employment will terminate. Even in that event, the employee may later apply for reemployment.

5.6. MILITARY LEAVE

The Uniformed Services Employment Reemployment Rights Act of 1994 entitles an employee to a leave of absence for military duty, including National Guard duty and Reserve training. The typical length of military training leave which is generally requested annually is two weeks. However, the Company will consider all requests for military leaves of absence and will grant such requests in accordance with applicable law.

A. Military Leave Request

All military leave requests must be submitted in writing and must include the following:

- Documentation detailing the specifics of the request including departure date and return date;
- Documentation from the military indicating the dates of service; and
- A statement that the employee intends to return to work at the end of the leave.

The written request for leave must be submitted as soon as the employee receives orders which indicate that a leave may be necessary. If an employee's period of duty is extended during the leave, the employee must notify the Company of the need for an extension of the leave immediately upon learning of the extension. If the possibility of a leave or of the need to extend a leave is known to an employee, that employee should notify his or her supervisor and the Human Resources Department of that possibility orally as soon as possible.

B. Salary and Benefits Coverage

You will receive your regular pay, less any military pay received, for the first two weeks per year of military leave. Any leave over two weeks per year is unpaid. Vacation and sick leave will accrue during military leave.

C. Returning to Work

The Company will attempt to reinstate an employee to his or her prior position. In some instances, however, it may not be reasonable to return the employee to the same position, and, in such instances, the employee will be returned to a similar position with like seniority, status and pay.

An employee who takes a military leave of over one month should notify Human Resources at least four weeks prior to his or her intended return date so that placement can be arranged.

5.7. *BEREAVEMENT*

Regular full-time employees are eligible to receive three days of paid leave to attend the funeral of an immediate family member. Immediate family member is defined as parent, in-law, sibling, child, grandchild or grandparent.

5.8. *JURY DUTY*

If you are summoned for jury duty, you will be excused from work for the duration of the jury duty assignment. You will receive your regular pay for the first three days of jury service. An employee must show a jury duty summons to his or her supervisor as soon as possible so that the supervisor may make arrangements to accommodate the employee's absence. Employees are expected to report for work whenever the court schedule permits.

VI. CONDUCT OF EMPLOYEES

6.1. *STANDARDS OF CONDUCT*

The Company expects all employees to conduct themselves in an appropriate and professional manner at all times while on the Company's premises or while on Company business. Conduct which adversely affects the interests or safety of other employees, clients or the Company is prohibited at all times.

It is not possible to list all forms of behavior that are considered unacceptable in the workplace and employees are expected to use common courtesy and good judgment at all times. Listed below are examples of some conduct that may result in immediate disciplinary action, including suspension or termination of employment. This list is not exhaustive and does not limit the Company's right to discipline in whatever manner it deems appropriate up to and including termination, depending upon the Company's assessment of the severity of the conduct.

Conduct which may lead to immediate disciplinary action includes:

- Excessive tardiness
- Excessive absenteeism or abuse of sick leave
- Failure to notify supervisors promptly of absences
- Failure to start work promptly at the beginning of the shift or scheduled work day or at the end of lunch or break
- Stopping work before the end of a shift or scheduled work day or not returning to work promptly at the end of lunch or rest break
- Absence from assigned work station or department without authorization by your supervisor
- Horseplay or other unnecessary boisterous conduct on Company or a customer's property
- Indecent or offensive language or conduct on Company or a customer's property
- Violation of smoking policy
- Violation of Company safety rules or of common safety practices
- Failure to follow job instructions
- Unsatisfactory job performance

- Insubordination
- Threatening or striking a supervisor or other employee
- Reporting to work under the influence of alcohol or drugs, bringing alcoholic beverages or drugs onto Company property, buying or selling, or attempting to buy or sell, drugs on Company property
- Possession of a firearm, explosives, or other weapon on Company property
- Theft of Company property or theft of the property of another employee
- Gambling of any kind on Company property
- Violation of the Company's anti-harassment policy or retaliation against an employee for reporting such harassment
- Falsification of documents, including but not limited to, job applications, resume, time cards, expense reports or other employment or production documents, whenever such conduct is discovered
- Filling out the time sheet of another employee or permitting another employee to fill out your time sheet
- Damage to Company property or to the property of another employee due to carelessness or negligence
- Verbal or physical abuse towards any employee
- Other fraudulent or dishonest conduct
- Violation of Company policies
- Sleeping, loafing or idleness during work hours

6.2. SAFETY AND HOUSEKEEPING

The Company has the responsibility to provide and maintain a safe and healthy place for our employees to work. It is our intention to comply with all applicable safety and health standards set forth by the Occupational Safety and Health Act (OSHA). Employees must report all work-related accident and illnesses to Security & Management immediately.

The safety of our employees is directly tied to the Company's strict housekeeping standards. Each department has safety guidelines that employees must follow.

The Company also has general safety rules and emergency procedures that all employees are responsible to know and are expected to follow. Appendix A contains a copy of these rules and procedures.

The Right to Know Law in Massachusetts states that employees working with toxic or poisonous substances must be informed of that fact within 30 days of hire. A Material Safety Data Sheet for each substance is on file at the Right to Know stations in the designated departments. It is your right to see sheets for any substance with which you work. For more information, please see a representative from Security or Human Resources.

6.3. *CORRECTIVE ACTION*

All employees are expected to maintain high standards of conduct and job performance and to observe all Company rules and policies. Failure to do so may result in discipline up to and including termination. When the Company believes it would be appropriate or useful, corrective action may be used to address performance, attendance or other problems. Corrective action which may be used includes verbal warnings, written warnings, final written warnings, suspension and discharge. Factors which may be considered in deciding whether to use corrective action and the level of corrective action may include the nature and seriousness of the conduct; the employee's past record; the impact of the employee's conduct on the employee's department, the Company and the Company's clients; and any mitigating or aggravating circumstances.

These corrective action measures will not apply in the event of conduct which the Company deems serious enough to warrant immediate discharge or in other circumstances when the Company determines that corrective measures would be inappropriate. The Company retains the discretion at all times to determine when to use corrective action and the level of action to take.

6.4. *SUBSTANCE ABUSE*

Out of concern for its employees and the community, the Company has taken a strong stand against drug and alcohol abuse. Drug and alcohol abuse increases the risk of workplace accidents, impairs the health and well-being of the user and diminishes productivity. The Company is therefore committed to maintaining a work place that is free from the influence of drugs and alcohol.

The unlawful manufacture, distribution, possession or use of a controlled substance or alcohol on the Company property or while on Company business is prohibited. For purposes of this policy, a controlled substance is any illegal drug or any prescription drug that if abused may lead to physical or psychological dependence. In addition, working while under the influence of alcohol or of a controlled substance is prohibited unless use of the controlled substance is consistent with a physician's prescription and does not substantially impair the employee's ability to work satisfactorily or pose a risk to workplace safety. Employees should notify their supervisors if their use of properly prescribed drugs may affect their work performance.

6.5. *SOLICITATION AND DISTRIBUTION*

A. Non-Employees

Persons who are not employed by the Company are not permitted to solicit employees or distribute literature or other materials, for any purpose or at any time, within the Company's premises.

B. Employees

Employees are not permitted to solicit other employees for any purpose not directly related to their assigned work on the Company's premises during their own working time or during the working time of the employees being solicited.

Employees may not distribute literature or other materials for any purpose not directly related to their assigned work during their own working time or during the working time of the employees to whom distribution is made. Employees are not permitted to distribute literature or other materials at any time in working areas of the Company.

Employees may not sell any item or post literature or other materials on Company property, other than for the Company's business purposes. Materials for distribution to employees may not be stored on the Company's premises.

6.6. *CONFIDENTIALITY*

Employment with the Company creates a relationship of confidence and trust between you and the Company with respect to all Confidential Information. Confidential Information means information which the Company possesses or to which the Company has rights. Confidential Information includes, by way of example and without limitation, lists of clients, prospective clients, vendors, subcontractors and community affiliates, mailing lists, statistical data compilations, manuals or any other documents embodying Company practices and policies, trade secrets, product ideas, processes, techniques, software, improvements, inventions, data, know-how, copyrightable materials, marketing plans and strategies, and sales and financial information. Confidential Information includes information developed by an employee in the course of his or her employment with the Company, as well as other information to which employees may have access in connection with their employment.

At all times, both during and after employment with the Company, all employees must keep in confidence and trust all such Confidential Information, and cannot use or disclose any such Confidential Information without the written consent of the Company, except as may be necessary in the ordinary course of performing duties for the Company. In addition, unless specifically authorized by the Company to speak to the press, it is a violation of this Confidentiality Policy to speak to any member of the media regarding Confidential Information. A violation of this policy may result in disciplinary action, up to and including termination of employment.

VII. ADMINISTRATIVE INFORMATION

7.1. APPLICATIONS/RECORDS

The Company relies upon the accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the Company's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

7.2. EMPLOYEE CLASSIFICATIONS

The Company places employees into several classifications for purposes such as personnel administration, payroll transactions and benefits.

All positions at the Company are classified as "exempt" or "non-exempt". An exempt employee is one who is considered to be an executive, professional or administrative employee under the Fair Labor Standards Act ("FLSA") and who is paid on a salaried basis. Exempt employees are not eligible to be paid overtime if they work over 40 hours a week. A non-exempt employee is one whose job is not classified as exempt and who is generally paid on an hourly basis. Pursuant to the FLSA, non-exempt employees are paid 1½ times their regular hourly rate for any hours worked over 40 in a week.

In addition, employees are classified as "introductory" or "regular". The first 90 calendar days of employment at the Company is referred to as an "introductory period". This 90-day period is a time for you to determine whether you like your work at the Company and for the Company to determine whether your work is satisfactory for its needs. At the end of this 90-day period, you will either become a regular employee, have your introductory period extended for an additional period of time, or be terminated. Certain benefits may not be available until an employee becomes a regular employee.

Regardless of an employee's classification or status, employment at the Company is at-will at all times.

7.3. PERSONNEL FILES

The Company maintains personnel files for each of its employees and is committed to keeping the information collected in these records is accurate and up-to-date. You should therefore inform the Human Resources Department of any changes in your address, telephone number, marital status or number of dependents. Your receipt of general company mailings, tax information, and insurance benefits may be affected by inaccurate information.

If you wish to change your benefit coverage or your beneficiary, be sure to contact the Human Resources Department so that proper forms can be completed.

You may request to review or to receive a copy of your personnel file by contacting the Human Resources Department. However, all original personnel files must remain in the Human Resources Department.

7.4. BULLETIN BOARDS

Bulletin boards are located at various locations throughout the Company. These bulletin boards are maintained to keep employees informed of Company announcements, policies and job opportunities. The Company urges its employees to check the bulletin boards regularly. Bulletin boards are not to be used for any other purposes.

7.5. PAYROLL INFORMATION

The Company is required by law to withhold social security payments and state and federal income taxes from employees' pay. A statement of deductions and earnings (Form W-2) for the preceding calendar year is issued each year during the month of January. If your employment with the Company ends prior to January, your W-2 Form will be mailed to you in January to the last address on record at the Company.

Paydays/Paychecks

All employees are paid on Thursdays. The pay period is from Monday, 12:01am to Sunday 11:59pm. Beacon Capital Partners Management, LLC is currently on a weekly pay system.

7.6. ACCIDENTS/INJURIES

The Company strives to provide a safe working environment for its employees. Safety is every employee's responsibility and all employees are expected to take necessary and reasonable steps to keep the Company a safe place to work. The Company requests the cooperation of all employees in maintaining a safe workplace by reporting any condition which may be a hazard to safety or health.

No matter how insignificant an on-the-job injury may seem to be when it occurs, notify your supervisor or the Human Resources Department immediately when any work-related accident or injury occurs.

7.7. EMPLOYMENT TERMINATION

Since employment with this Company is based on mutual consent, both the employee and the Company have the right to terminate employment at will, with or without cause, at any time. If you resign from employment, you are requested to provide two weeks notice. If you are absent from work for three workdays without directly notifying your supervisor, you will be considered to have resigned effective on your last day worked.

The Company will generally schedule exit interviews for terminating employees. The exit interview will provide an opportunity to discuss such issues as employee benefits and return of Company-owned property. Suggestions, complaints, and questions can also be voiced.

Generally, all employee benefits will cease at employment termination. Consistent with the Consolidated Omnibus Budget Reconciliation Act (COBRA), medical and dental insurance coverage may be continued at the employee's expense if the employee so chooses. The

employee will be notified in writing of the benefits that may be continued and of the terms, conditions, and limitations of such continuance.

Employees are responsible for all property, materials, or written information issued to them or in their possession. Employees must return all property of the Company including beepers, keys, access cards, etc. that are in their possession at the time of termination.

VIII. GENERAL INFORMATION

8.1. *EMPLOYEE CONCERNS*

Employees are encouraged to make it known when a job-related problem arises. Informal discussions often produce a solution to a problem quickly and easily. When a question or difficulty arises, the easiest and most efficient way of communicating is through a thorough and frank discussion with your supervisor, with the matter at issue being clearly stated and understood by both of you. Many problems and misunderstandings can be resolved in this manner.

In some cases, discussions with other management personnel or with the Human Resources Department may be helpful. If you are in doubt as to how to proceed, you should contact the Human Resources Department for assistance.

8.2. *"OPEN DOOR" PHILOSOPHY*

Effective communication forms the basis for sound employee-manager relationships and a positive and productive work environment. Our commitment to effective communication is reflected by our "open door" philosophy. Employees should always feel free to approach their manager with work-related ideas, observations and concerns. A frank talk with a manager is one of the best ways to get immediate feedback, to ease your mind about a particular situation or to resolve a problem.

Managers keep an "open door" for the questions and concerns of employees. This should be the first place an employee goes to voice concerns. However, there may be times when an employee feels, for some reason, that he or she is unable to discuss a particular situation with the manager. In these cases, the employee should express his or her concerns to a Human Resources representative.

8.3. *DRESS CODE*

Your personal appearance reflects your attitude toward the Company and how the Company is perceived by the public and our clients. Because you are a representative of the Company, the Company expects you to use common sense and good taste in dress and grooming and, in general, to avoid extremes. Hair, beards and mustaches should be kept trimmed, and clothing should be tasteful. Clothing that is dirty, outlandish or provocative should not be worn to work. An employee who reports for work inappropriately dressed, in the opinion of his or her supervisor, will be asked to go home and change, and may be docked for the time not worked. Employees will be expected to adhere to the following standards of dress:

A. Office Personnel

Office personnel are expected to dress in a manner which is appropriate for an office environment and which projects a businesslike appearance. T-shirts, jeans, shorts, sandals, athletic shoe or similar items of casual attire are not permitted.

B. Tradesmen

(a) All tradesmen will be assigned uniforms (pants and shirts with an arm patch) and will wear them at all times when on duty.

(b) The uniforms will be kept neat and in good repair at all times. If a uniform is excessively dirty or torn it will immediately be returned to the stockroom for cleaning or repair.

(c) Shirts will be appropriately buttoned (only top one or two buttons open).

(d) Hats are discouraged; however they may be worn if working in mechanical spaces, ceiling plenums or outside. If hats are worn, they will be either with a John Hancock logo or plain with no logo.

(e) Appropriate steel toe work boots must be worn when on duty.

(f) No other patches, pins, badges or buttons are to be worn on the uniform except for the Company logo.

8.4. *OUTSIDE EMPLOYMENT*

The Company does not object to your holding an outside job, as long as that outside job does not interfere with your duties or your performance at the Company. If the Company determines that an outside job would be inappropriate or would interfere with your employment for the Company, you may be asked to select between your two jobs. For that reason, all employees are required to notify their supervisors of outside employment.

When considering outside employment, you should avoid any situation that:

1. Adversely affects your performance on the job at the Company, such as being too tired to perform effectively or being unable to work overtime if needed;
2. Involves working in any capacity for an employer offering goods or services that are competitive with those offered by the Company; or
3. Gives the appearance of presenting a conflict of interest, such as working for the Company's clients.

8.5. *EMPLOYMENT VERIFICATION AND REFERENCES*

All inquiries, which you or others may have regarding your employment, should be directed to the Human Resources Department. Human Resources will ordinarily confirm only the following to anyone inquiring about your employment for such reasons as references, loans, mortgages, applications, etc.:

- Confirmation of employment

- Dates of employment
- Position (or last position held)

Additional information may be provided only after we receive your written request.

8.6. DAMAGE CONTROL TEAM

As part of the Emergency Preparedness Organization (EPO), the Building Operations Department designates certain individuals to assist the Emergency Response Team (ERT) during an emergency incident. These individuals are identified as members of the Damage Control Team (DCT). The general responsibilities of the DCT is to limit damage to the Home Office Complex caused by emergencies such as fire or explosions, hazardous material or hazardous waste spills, or any other incident that may threaten life safety or cause property damage.

8.7. GUIDELINES FOR SNOW/EMERGENCY DAYS, EARLY CLOSING DAYS AND LATE OPENING DAYS

Due to the nature of the tenancy of the John Hancock Complex, there is never a time that the buildings do not have occupancy by either John Hancock personnel or building tenants. Because of this, the Real Estate Operations Department must always staff the complex to maintain normal operations. This does not necessarily mean a full complement of personnel is required at all times, however, a designated minimum staffing is required. Below are guidelines that will be used for insuring that the complex is adequately staffed, and for establishing compensation for the time worked during emergency closings.

(a) Work Guidelines for Policies 8.6 and 8.7

(i) All non-administrative operations staff should expect to work their normal shift hours on all snow or other emergency days, early closing days and late opening days.

(ii) Emergency Crews will be established for each department. Emergency Crew personnel are required to be available to work during any emergency days. All personnel will be designated for the Emergency Crew on a rotating basis at some time during the year.

(iii) Decisions on required personnel during emergency days will be made on a case-by-case basis. However, if staff is designated as Emergency Crew and do not report to work accordingly, this may be the basis for disciplinary action, including termination.

(b) Compensation Guidelines for Policies 8.6 and 8.7

(i) Staff who are not designated as Emergency Crew, are unable to get to work, or are excused from work by their supervisor during an emergency day that John Hancock Company is closed, will receive their normal

compensation for that day. These hours will be counted as hours worked for the purposes of calculating overtime.

(ii) The Emergency Crew will receive normal compensation for the hours worked, plus an additional compensation of one straight time shift. Only the actual hours worked will be counted for the purposes of calculating overtime.

(iii) All evening and night shift staff will receive normal compensation for the hours worked, plus an additional compensation of one straight time shift. Only the actual hours worked will be counted for the purposes of calculating overtime.

(iv) In the event of late opening or early closing days, all the staff is expected to start or complete their shift accordingly. Compensation for this time will be for actual hours worked to complete the shift plus one additional hour for each hour that the company was closed, to either the end of the shift or the start of the workday. This does not apply to evening or night shifts.

Please note that existing policy states that vacation, personal, salary continuance (sick) days or jury duty are not considered time worked and will not be counted for the purposes of calculating overtime.

8.8. EMPLOYMENT OF RELATIVES

It is the Company's policy not to hire close relatives of current employees. Close relatives include the spouse, siblings, parents, in-laws, children, grandparents, grandchildren, uncles, aunts, nieces or nephews of any current employee.

8.9. POLICY AND PROCEDURES PROHIBITING SMOKING

(a) Purpose: It is recognized that smoking is dangerous to the health of the smoker and that involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers. The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke. This applies to *all* smoking tobacco products, i.e., cigarettes, cigars, and pipes. This policy has been developed to protect all persons from the exposure to environmental tobacco smoke and to ensure a safe working environment.

(b) Policy: Smoking is prohibited in all facilities and areas of the entire workplace with no exceptions. Smoking is not permitted anywhere at Beacon Capital Partners Management, LLC, including all common work areas, elevators, hallways, company vehicles, restrooms, cafeterias, employee lounges, conference and meeting rooms, and all other enclosed or outdoor areas in the workplace. The policy applies to all employees, clients, consultants, contractors, and visitors.

(c) Procedure:

(i) Compliance with the smoke-free policy is mandatory for all employees and persons visiting Beacon Capital Partners Management, LLC.

(ii) Any disputes involving smoking will be referred to your immediate supervisor.

(iii) Employees who violate this policy are subject to disciplinary action up to and including termination.

(iv) No person or employer shall discharge, refuse to hire, refuse to serve, or in any manner retaliate against any employee, applicant or customer because such employee, applicant or customer takes any action in furtherance of the enforcement of this regulation or exercises any right conferred by this regulation.

(d) Smoking Cessation Opportunities: Beacon Capital Partners Management, LLC encourages all smoking employees to quit smoking. We are available to provide you with contact information for Smoking Cessation resources and self-help materials for those employees who want to quit. For further information about these services please contact Human Resources.

(e) Questions: Any questions regarding the smoke-free workplace policy should be directed to Human Resources.

8.10. *TELEPHONES*

Personal calls may be made or received from Company telephones only in cases of genuine emergency and only with your supervisor's permission. There is a pay phone in the employee lounge for those who wish to make personal calls during break periods.

8.11. *SEARCHES*

Desks, lockers, and other storage devices may be provided for the convenience of employees but they remain the sole property of the Company. Accordingly, they may be inspected by any agent or representative of the Company at any time either with or without prior notice. If you prefer not to have your personal items subjected to scrutiny, you should leave such items at home.

8.12. *COMPUTER AND INFORMATION SECURITY POLICY*

This Policy sets forth some important reminders about the use of the Company's computer and communications systems. These systems include individual PCs provided to certain employees, all associated software, the Company's telephone, voice mail and electronic mail systems, all centralized computer equipment, and the local and wide-area networks.

The Company has provided these computer and communications systems to support the conduct of its business. No use of these systems should ever conflict with the primary business purpose for which they have been provided, with the Company's ethical responsibilities or with

applicable laws and regulations. Each user is personally responsible to ensure that these guidelines are followed.

All data in the Company's computer and communication systems (including documents, other electronic files, e-mail and recorded voice mail messages) is the property of the Company. The Company may inspect and monitor such data at any time, with or without the employee's assistance or consent. **No individual should have any expectation of privacy for messages or other data recorded in the Company's systems.** This includes documents or messages marked "private," which may be inaccessible to most users but remain available to the Company. The fact that computers are password-protected does not create any expectation of privacy in information or documents on an employee's computer. Likewise, the deletion of a document or message may not prevent Company access to the item or completely eliminate the item from the system.

The Company's systems must not be used to create or transmit material that is derogatory, defamatory, obscene or offensive, such as slurs, epithets or anything that might be construed as harassment or disparagement based on race, color, ancestry, citizenship, sex, sexual orientation, age, religion, national origin, pregnancy, marital status, physical or mental disability or other legally protected characteristics. Similarly, the Company's systems must not be used to solicit or proselytize others for commercial purposes, causes, outside organizations, chain messages or other non-job-related purposes.

Security procedures in the form of unique user sign-on identification and passwords have been provided to control access to the Company's host computer system, networks and voice mail system. In addition, security facilities have been provided to restrict access to certain documents and files for the purpose of safeguarding information. The following activities, which present security risks, should be avoided:

- Attempts should not be made to bypass, or render ineffective, security facilities provided by the Company.
- Passwords should not be shared between users. If written down, passwords should be kept in locked drawers or other places not easily accessible.
- Document libraries of other users should not be browsed unless there is a legitimate business reason to do so.
- Changes or modifications to the hardware configuration of computer equipment should never be made. Requests for such changes should be directed to your manager.
- Additions to or modifications of the standard software configuration provided on the Company PCs should never be attempted. Requests for such changes should be directed to your manager.
- Software or programs should never be loaded or executed on the Company computers by individual users. Requests for loading such software or programs should be

directed to your manager to determine whether such software or programs present any risks to the Company's computer system or would violate any applicable laws.

- The Company's computer facilities should not be used to attempt unauthorized access to or use of other organizations' computer systems and data.
- Computer games should not be loaded on the Company's PCs.
- Software and documentation for programs licensed or owned by the Company should not be removed from the Company's offices or copied onto any media.
- The location or installation of computer equipment in offices and work areas should not be changed. Requests for such changes should be directed to your manager.

There are a number of practices which individual users should adopt that will foster a higher level of security. Among them are the following:

- Turn off your personal computer when you are leaving your work area or office for an extended period of time.
- Exercise judgment in assigning an appropriate level of security to documents stored on the Company's networks, based on a realistic appraisal of the need for confidentiality or privacy.
- Remove previously written information from CDs or disks before copying documents on such CDs or disks for delivery outside the Company.

Should you have any questions about any of the above policy guidelines, please contact your supervisor.

8.13. *INTERNET ACCEPTABLE USE POLICY*

The Company has provided access to the Internet for certain employees to support its business. No use of the Internet should conflict with the primary business purpose of the Company, with the Company's ethical responsibilities or with applicable laws and regulations. Each user is personally responsible to ensure that these guidelines are followed.

The Company may monitor usage of the Internet by employees, including reviewing a list of sites accessed by an individual. **No individual should have any expectation of privacy in terms of his or her usage of the Internet.** In addition, the Company may restrict access to certain sites that it deems are not necessary for business purposes.

The Company's connection to the Internet may not be used for any of the following activities:

- The Internet must not be used to access, create, transmit, print or download material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that may be construed as harassment or disparagement based

on race, color, ancestry, citizenship, sex, sexual orientation, age, religion, national origin, pregnancy, marital status, physical or mental disability or other legally protected characteristics.

- The Internet must not be used to access, send, receive or solicit sexually-oriented messages or images.
- The Internet must not be used to download or copy materials without the permission of the publisher or owner. For assistance with copyrighted material, contact your manager.
- Employees should safeguard against using the Internet to transmit personal comments or statements through e-mail or to post information to news groups that may be mistaken as the position of the Company.
- Employees should guard against the disclosure of confidential information through the use of Internet e-mail or news groups.
- The Internet should not be used to send or participate in chain letters, pyramid schemes or other illegal schemes.
- The Internet should not be used to solicit or proselytize others for commercial purposes, causes, outside organizations, chain messages or other non-job related purposes.
- The Internet provides access to many sites that charge a subscription or usage fee to access and use the information on the site. Requests for approval must be submitted to your manager.

If you have any questions regarding any of the policy guidelines listed above, please contact your supervisor.

IX. Appendix A: Safety Rules**9.1. *GENERAL SAFETY***

- Obey all rules and regulations.
- Follow instructions; don't take chances.
- If you are not sure how to do a job safely, ask your supervisor.
- Be alert. Be sure to look where you are going, and make sure there is enough light to see your way.
- Move at a pace so that you can stop quickly should a guest or employee step in front of you.
- Horseplay, practical jokes and running are strictly prohibited.
- Keep your work place clean and orderly.
- If you see unsafe or sub-standard conditions or practices you think might cause damage, illness or injury, report them immediately to your Supervisor or Security.
- If your job requires personal protective equipment, wear it properly and keep it in good condition (safety glasses, ear plugs, gloves, dust masks, etc.).
- Use the handrail when going up or down stairs, and use knob when opening or closing a door.
- Force should never be applied to open a container. Always use the label before using chemicals.
- Conserve energy by turning off lights and equipment when not in use.
- Do not operate machines unless you have been properly trained.
- Clean spills immediately. Use spill stations.
- Dispose of broken glass, etc. Do not pick up broken glass with your hands.
- Put equipment away after use.
- Report suspicious acting people to Security.

9.2. *EMERGENCY PROCEDURES*

- Familiarize yourself with emergency and evacuation procedures.
- Know location of fire extinguishers, fire exits, and fire alarm pull stations.
- Know action to take in the event of:
 - Employee/guest accident or illness
 - You see fire, smell smoke, or see smoke
 - Chemical spill (if you work with hazardous chemicals)
 - Blood spill

9.3. *GENERAL FIRE PROCEDURES*

It is everyone's responsibility to know the correct action to take in the event of a fire. Be sure you are familiar with the location of fire alarms; pull stations and fire extinguishers, particularly in your specific work area. If you discover a fire or smell smoke:

- Activate the nearest alarm pull station

- Dial _617-275-0123
- Give the exact location of the fire
- Follow instructions of your supervisor and be prepared to follow emergency evacuation routes to a safe area
- Do not place yourself in danger
- Do as much as possible to extinguish the fire with an extinguisher if you have been trained how, but do not use a fire hose
- Do not use water on an electrical fire
- Never enter a smoke-filled room or corridor

9.4. ACCIDENTS, INJURIES OR ILLNESSES

Report all accidents, injuries or illnesses at once to Security and/or your Supervisor. Inspect or make note of the work condition that caused the injury and give this information to Security

EXHIBIT 2

John Hancock Financial Services, Inc.

HR Shared Services

John Hancock Place
Post Office Box 111
Boston, Massachusetts 02117
(617) 572-5761
Fax: (617) 572-6732
E-mail: pmongeau@jhancock.com

Peter J. Mongeau, CEBS
Vice President



October 4, 2004

Carlton Grant
HRSS - Appeals

Carlton:

As requested in your July 16th note to me, and subsequent to you advising me that the appeal letters continue to come in and that you have scheduled a November, 2004 appeal committee meeting, attached please find the information from my files. The information is in somewhat of a chronological order as follows:

- Beacon Capital "comparability" analysis
- administrative guidelines to determine comparability
- 11/02 severance plan
- spring 2003 severance agreement
- 11/02 final draft plan votes and employee communications
- 11/02 severance memo (from Walters)
- fall 2002 working papers on sale of business unit
- fall 2002 and earlier working papers on various severance plan language/provision changes

This is the extent of the information I have on file short of material that is "privileged and confidential attorney-client communication/attorney work product". Also, you should request a copy of the final 11/02 Senior Committee vote adopting the revised severance plan from Antoniette Ricci.

As discussed, I will not hear the appeal, given my personal involvement in this matter. However, I will make myself available to the other committee members for any questions should that be necessary.


Peter Mongeau

CONFIDENTIAL

JH 001369

Mongeau, Peter J.

From: Mongeau, Peter J.
Sent: Thursday, November 14, 2002 2:45 PM
To: Palmer, Page; Morton, Karen; Colley, Sandra M.; Clarkson, Philip
Cc: Blake, Lisa; DiCicco, Joan M.
Subject: FW: Final (?) Draft of Severance Plans and Vote

I've made some "proof-reading" edits to 3.1, and some "consistency" edits in the language in 3.2 and 5.5. of each plan. I consider these ready to go. Phil, you'll want to add a space before "(1)" in the Resolution. Also attached is the "final?" draft of the employee communication (which incorporates a first-round of edits from Page, Sandi, Lisa Blake and Joan DiCicco).



severance2002eec
omm.doc (31 KB...

Ideally, if you have any final changes to the plans, please get them to Phil tomorrow or Monday. Get me any edits to the employee communication. If we can get this sent to David and Wayne by Monday or Tuesday of next week, Page and I can follow-up with them when we meet on another item on Wednesday.

Once the vote is approved, I will update the Hub Employee Central language, and we will work these changes into the SPD addendum we're preparing for distribution in December.

Sandi, I assume you are or have already revised the agreements for both employees and Senior Officers (including addressing ICP and non-solicitation), and that the Q&As have been amended to comply with these documents.

Thanks.

—Original Message—

From: Clarkson, Philip
Sent: Wednesday, November 13, 2002 8:03 AM
To: Palmer, Page; Mongeau, Peter J.; Morton, Karen; Colley, Sandra M.
Subject: Final (?) Draft of Severance Plans and Vote



PC3284.DOC (28
KB)



PC3272.DOC (76
KB)



PC3273.DOC (76
KB)

JH Communication on behalf of Human Resources

Subject: Severance Pay Plan Changes

Annually, John Hancock evaluates the competitive standing and costs of its benefit plans. We typically focus on our health and retirement benefits, which can change year-to-year for all companies. We recently evaluated the Company's Severance Pay Plan as well – comparing its provisions to those of our peers and to industry norms.

Generally, our Severance Pay Plan is at or above average with respect to key provisions – for example, the number of weeks of pay per year of service, the alternative calculation which is based on base salary, the choice of various payout options which can extend the duration of severance payments, and continuing medical benefits and crediting service during severance. However, other provisions (pertaining to the sale or outsourcing of a business unit) were found to be the exception to those benefits offered by other employers. As a result, the following two provisions of the plan will be changed so that:

- in the event of the sale or outsourcing of a business unit, if an employee of the business unit is offered a comparable job by the purchaser or successor company, severance will not be paid (comparable will be defined as similar salary, competitive benefit offerings, and a work location within 50 miles of the current work location)
- if the purchaser or successor company subsequently terminates the employee within six months of the sale or outsourcing (and hire) date, severance will not be paid under the John Hancock plan

The reasons for these changes are:

- the competitive findings as described above
- the realignment of our Severance Pay Plan with its primary purpose to "bridge" employees to future employment
- the need to support necessary and strategic divestitures and outsourcing

We want to acknowledge that these changes to the Severance Pay Plan are being made at the same time some John Hancock business units have announced a sale or outsourcing is under consideration. Therefore, one of the evaluation criteria of the bidders may be their ability to offer viable positions to our employees in a company at which they can be successful. Should such positions not be available and offered by the purchaser or successor company, John Hancock severance benefits will be paid if an employee is terminated as a result of the sale or outsourcing.

Should you have any questions about this benefit change, please contact Benefits & HR Services at 1-800-990-4404. If you are an employee in a business unit that has announced a sale or outsourcing, you will receive additional information as soon as it is available.

Bisciotti Dep. Tr.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11428-WGY

DANIEL JOYCE, Individually and on *
behalf of a class of others *
similarly situated, *
Plaintiff, *
*
v. *
*
JOHN HANCOCK FINANCIAL SERVICES, *
INC., and JOAN M. DiCICCO, *
Defendants. *

DEPOSITION OF BRIAN J. BISCIOTTI,
taken pursuant to a mutual confidentiality
agreement and the applicable provisions of the
Federal Rules of Civil Procedure, before Susan L.
Prokopik, Registered Merit Reporter and Notary
Public in and for the Commonwealth of
Massachusetts, at the offices of Todd & Weld LLP,
28 State Street, Boston, Massachusetts, on
Tuesday, May 9, 2006, at 11:02 a.m.

KACZYNSKI REPORTING
72 CHANDLER STREET, SUITE 3
BOSTON, MASSACHUSETTS 02116
(617) 426-6060

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1 A. If there is any documents that kind of give --
 2 basically a ground rules to make a decision?
 3 Q. Correct.
 4 A. None that I'm aware of.
 5 Q. So based on your testimony here today, on what
 6 basis are you stating the phrase "educated
 7 decision"?
 8 A. Based on just how we -- as a reasonable employee
 9 of the company review any decision we're taking.
 10 Q. So you step into the shoes, is it fair to say you
 11 step into the shoes of a reasonable employee of
 12 the company --
 13 MS. JACKSON: Objection.
 14 Q. -- when rendering your decision on whether to
 15 uphold or reverse a decision on benefits?
 16 MS. JACKSON: Objection. That's
 17 leading.
 18 MR. ROBBINS: Well, I can ask a leading
 19 question.
 20 Q. Would you like me to rephrase the question --
 21 A. Um --
 22 Q. -- or did you understand the question?
 23 A. I did but I'm going to stand by the objection.
 24 Q. Well, you can answer the question.

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1 MS. JACKSON: I'm going to instruct him
 2 not to answer. If you would like to place a
 3 nonleading question before him, then he can
 4 answer that.
 5 MR. ROBBINS: We reserved in our
 6 stipulations that you reserve the right to object
 7 as to form. You have made your objection. That
 8 will come up at a later point in time.
 9 Q. If you understand the question and if this does
 10 not reveal privileged information, I would ask
 11 that you answer the question.
 12 A. Could you repeat the question, please?
 13 MR. ROBBINS: Can you read back for me
 14 what the question was?
 15 (Question read.)
 16 Q. Do you understand the question, Mr. Bisciotti?
 17 A. I do. Yes.
 18 Q. And what is your response?
 19 A. I think it's fair to say I do.
 20 Q. You do step into the shoes of a reasonable
 21 employee when rendering a decision on --
 22 A. Correct.
 23 Q. On the Appeals Committee?
 24 A. On the basis of the facts and the material I had

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1 to review the case, correct.
 2 Q. Again, how do you determine what a reasonable
 3 employee or how a reasonable employee would
 4 interpret the plan?
 5 A. Just more of a general understanding of the case.
 6 Q. I mean -- sorry to interrupt. Is there a
 7 consensus taken to determine what the reasonable
 8 employee thinks or are you determining this as a
 9 tax lawyer?
 10 A. I'm --
 11 MS. JACKSON: Objection.
 12 Q. You can answer.
 13 A. I'm not determining it as a tax lawyer. I'm
 14 determining it as a committee member that votes
 15 on the committee.
 16 MR. FEEHERRY: Let's take a two-minute
 17 break if that's okay with you.
 18 MR. ROBBINS: Fine.
 19 (Recess.)
 20 (Question read.)
 21 Q. Mr. Bisciotti, I would like to touch on this
 22 "reasonable employee" phrase that you used in
 23 your previous testimony and try and pinpoint what
 24 it is, what steps that you take as a member of

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1 the Appeals Committee to best grasp the feel of
 2 the reasonable employee.
 3 A. Okay. When I say that, I believe that we are --
 4 as a committee we get together to discuss the
 5 case and make sure that the plan's been applied
 6 fairly. That's where I get that -- that's where
 7 I make that statement from. That the plan terms
 8 have been applied non -- in a nonarbitrary,
 9 capricious manner.
 10 Q. Has anyone ever used that phrase before in order
 11 to describe the standard of review when reviewing
 12 an appeal?
 13 A. I'm not aware of it.
 14 Q. How many members are there on the Appeals
 15 Committee?
 16 A. At this -- for this case, there was three.
 17 Q. And we'll get to that in a moment. Generally how
 18 many members are there on the Appeals Committee?
 19 A. Three.
 20 Q. Is there ever less than three?
 21 A. If someone needs to recuse themselves maybe.
 22 Q. Is there ever more than three?
 23 A. No.
 24 Q. Okay. Have you ever been deposed due to the

5 (Pages 14 to 17)

KACZYNSKI REPORTING

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1 document?
 2 A. Yes, I am.
 3 Q. What is it?
 4 A. It's the severance plan document.
 5 Q. On the bottom right corner of this document
 6 marked as JH 001909 through JH 001919 and
 7 entitled "John Hancock Financial Services, Inc.,
 8 Severance Pay Plan" is the date 11/15/02. What
 9 does this date represent?
 10 A. As far as I know, it's the effective date of the
 11 latest statement of the plan.
 12 Q. With respect to Exhibit 2, do you recall if this
 13 document was a copy of the same 11/02 severance
 14 plan Mr. Mongeau purportedly provided to Carlton
 15 Grant for the Appeals Committee to review?
 16 A. To the best of my knowledge it was.
 17 Q. Do you recall whether the Hancock severance pay
 18 plan was amended in any way in late 2002?
 19 A. Yes.
 20 Q. In what respects do you recall the plan being
 21 amended?
 22 A. The -- to my knowledge it was amended --
 23 specifically article 3.2, I think.
 24 Q. Calling your attention to section 3.2, were

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1 subsections C and D specifically the subsections
 2 added to the plan in November of 2002?
 3 A. That's -- I'm aware of, yes.
 4 Q. Are subsections 3.2 C and D commonly referred to
 5 as the comparable job provision?
 6 A. I'm not aware of that.
 7 Q. Have you ever heard the phrase "comparable job
 8 provision" with respect to the severance pay
 9 plan?
 10 A. Just in the context of this appeal.
 11 Q. Is this the severance plan that you were provided
 12 and relied upon when reviewing Joyce's appeal for
 13 severance benefits?
 14 A. That's correct. Yes.
 15 Q. Could you please review to yourself section 7.5
 16 and 7.6?
 17 A. Okay.
 18 Q. Okay. What was the significance of section 7.5
 19 and 7.6 to you as a member of the Appeals
 20 Committee?
 21 A. This is the procedure to follow in filing the
 22 claim. Filing an appeal.
 23 Q. So is it fair to say in addition to what has been
 24 marked as Exhibit 1, the procedural rules, there

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1 are additional rules set forth in section 7.5 and
 2 7.6 of the severance pay plan?
 3 A. They're generally the same it seems.
 4 Q. Okay.
 5 A. They kind of go together, yes.
 6 Q. On how many occasions have you been asked to
 7 consider an employee's appeal for severance
 8 benefits since the plan was amended in November
 9 of 2002?
 10 A. Just this one.
 11 Q. When did you first become aware that the
 12 severance pay plan had been amended?
 13 A. During this appeal.
 14 Q. Did you receive notice as a Hancock employee that
 15 the plan had been amended prior to this appeal?
 16 A. I can't recall. I may have.
 17 Q. What does it mean in section 7.6 when it states
 18 that the committee's decision "shall include
 19 specific reasons for the decision"?
 20 A. It must consider the specific reasons for the
 21 appeal. It is what it is.
 22 Q. How do you interpret that phrase? And how do you
 23 apply it to your duties as a member of the
 24 Appeals Committee?

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1 A. We must -- we must consider all the
 2 documentation, consider the appeal and set forth
 3 our reasons for why the plan is interpreted the
 4 way it is.
 5 Q. To set forth specific reasons, correct?
 6 A. Right.
 7 MR. ROBBINS: If we could mark this as
 8 Exhibit 4.
 9 (Severance Pay Plan marked Exhibit No.
 10 4.)
 11 Q. Mr. Bisciotti, are you familiar with this
 12 document, which has now been marked as Exhibit 4?
 13 A. Yes, I am.
 14 Q. What is it?
 15 A. It's the summary plan description of the
 16 severance pay plan.
 17 Q. Referring to the bottom of the page, where it
 18 states "Benefits Supplement, December, 2002,"
 19 what does that refer to?
 20 A. This was supplemented December, 2002. Severance
 21 pay plan. SPD.
 22 Q. So is this document part of the severance pay
 23 plan? Is this document part of the summary plan
 24 description?

10 (Pages 34 to 37)

KACZYNSKI REPORTING

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1 A. As far as I'm aware it is, yes.
 2 Q. What is the purpose of a benefits supplement?
 3 A. To explain the plan provisions.
 4 Q. In this case to explain the severance pay plan
 5 provisions, correct?
 6 A. Correct.
 7 Q. Okay. Do the last couple paragraphs beginning
 8 with "Effective November 18, 2002" refer to
 9 subsections 3.2 C and D of the severance pay
 10 plan?
 11 A. They may.
 12 Q. Do you recall if at any point in time you ever
 13 knew whether these two provisions referred to
 14 subsections 3.2 C and D of the severance pay
 15 plan?
 16 A. Just in the course of this appeal.
 17 Q. Is the purpose of these paragraphs to interpret
 18 subsection 3.2 C and D of the severance pay plan?
 19 A. As far as I'm aware.
 20 Q. Is the purpose of these paragraphs to interpret
 21 subsection 3.2 C and D so the subsections can be
 22 understood, rather, so the plan provisions can be
 23 understood by the average severance plan
 24 participant?

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1 A. That's my understanding.
 2 Q. Was Daniel Joyce's appeal the first time you were
 3 asked to interpret subsections 3.2?
 4 A. Yes, it was.
 5 Q. To the extent this was the first time you had to
 6 interpret the newly amended provisions of the
 7 plan, subsections 3.2 C and D would have been
 8 helpful in you making your decision, correct?
 9 A. Correct.
 10 Q. In fact, these two paragraphs of Exhibit 4 would
 11 have been helpful for you to interpret the
 12 provisions of the plan?
 13 A. Helpful, yes.
 14 Q. Do you specifically recall whether you were
 15 provided with a copy of Exhibit 4 when reviewing
 16 Joyce's appeal?
 17 I notice you're referencing Exhibit 2.
 18 A. Right.
 19 Q. Do you specifically recall without making
 20 reference to Exhibit 2 from memory whether you
 21 were provided with a copy of this document?
 22 A. I believe so.
 23 Q. On what basis do you form that belief?
 24 A. I believe it was in the package of material we

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1 had when we -- before we met as a committee.
 2 Q. If I could ask you to turn back to Exhibit --
 3 what's been marked as Exhibit 2, which is the
 4 letter from Mr. Mongeau to Carlton Grant. Was
 5 this document marked as Exhibit 4 included in Mr.
 6 Mongeau's package of documents sent to the
 7 Appeals Committee?
 8 A. To my recollection it was.
 9 Q. I'm asking you with reference to Exhibit 2, is
 10 it, do you know, is it clear from this document,
 11 Exhibit 2, that Exhibit 4 was part of the package
 12 of documents sent to the Appeals Committee?
 13 A. Not from looking at Exhibit 2.
 14 Q. So on what basis do you believe that Exhibit 4
 15 was actually received by the Appeals Committee?
 16 A. The documents, it's familiar to me.
 17 Q. Is it possible you may have reviewed this
 18 document, Exhibit 4, on an occasion other than
 19 reviewing Dan Joyce's appeal?
 20 A. No.
 21 Q. It's not possible. And on what basis do you make
 22 that determination that it could not be possible?
 23 A. Because it isn't.
 24 Q. Despite the fact it's not specifically referenced

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1 in Exhibit 2; is that fair to say?
 2 A. Correct.
 3 MS. JACKSON: Objection.
 4 Q. Do you recall when the first time, when was the
 5 first time you saw this document?
 6 A. No, I don't.
 7 Q. On how many occasions have you been asked to
 8 interpret or apply subsections 3.2 C and D with
 9 respect to an employee's appeal for severance
 10 benefits?
 11 A. Just this case.
 12 Q. In reading this provision in Exhibit 4, was the
 13 condition precedent for applying the comparable
 14 job provision the sale or outsourcing of a
 15 business unit?
 16 A. If you look at the plan, it doesn't have that
 17 language in it.
 18 Q. Well, I'm asking you to take a look with respect
 19 to Exhibit 4 and we've already established,
 20 correct, that this language interprets the plan,
 21 correct?
 22 A. It helps interpret.
 23 Q. It helps interpret or it does interpret?
 24 A. It helps.

11 (Pages 38 to 41)

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1 MS. MORTON: Off the record.
 2 (Off the record.)
 3 Q. According to just Exhibit 4, if we take Exhibit 4
 4 as it is, must the plan administrator first
 5 determine whether there is an outsourcing or sale
 6 of a business unit before determining whether a
 7 comparable job has been offered to an associate?
 8 MS. JACKSON: Objection.
 9 A. Again, this is the interpretive language of the
 10 plan. That's the best I can offer for this.
 11 Q. So according to the interpretive language of the
 12 plan, that's what I'm only asking you about, must
 13 the plan administrator first determine whether
 14 there has been a sale or outsourcing of a
 15 business unit before determining whether a
 16 comparable job has been offered to an associate?
 17 MS. JACKSON: Objection.
 18 A. I don't think it's entirely clear to me from the
 19 SPD.
 20 Q. Did you rely on this document marked as Exhibit 4
 21 in any way when reviewing Joyce's appeal?
 22 A. I may have looked at it.
 23 Q. I believe you stated earlier that this
 24 provides -- you believe this provides some

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1 guidance for interpreting the plan. Is that
 2 correct?
 3 A. That's correct.
 4 Q. Did you find that you needed this sort of
 5 guidance in order to assist you in interpreting
 6 the plan in this situation, being Joyce's appeal?
 7 A. No. The plan was clear to me.
 8 Q. If there is no sale or outsourcing of a business
 9 unit, does subsection C and D of section 3.2 of
 10 the severance plan apply?
 11 A. Can you repeat that again? Sorry.
 12 Q. If there is no sale or outsourcing of a business
 13 unit, does subsections 3.2 C and D of the
 14 severance pay plan apply?
 15 A. Sale or outsourcing isn't referred to in 3.2
 16 specifically.
 17 Q. Okay. What is a business unit?
 18 A. It's not a defined term. I'm not sure.
 19 Q. Is the summary plan description distributed to
 20 employees?
 21 A. It's available to employees, yes.
 22 Q. And the phrase "business unit" is used in the
 23 summary plan description, correct?
 24 A. Correct.

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1 Q. Being that you as a member of the Appeals
 2 Committee often times put yourself in the shoes
 3 of a reasonable employee, how do you interpret
 4 the phrase "business unit"?
 5 A. Business unit could vary between areas of the
 6 company.
 7 Q. Do you recall in which business unit Joyce was
 8 employed?
 9 A. The building service area, I believe.
 10 Q. Is that the name --
 11 A. I'm not sure that's the exact name. Real estate
 12 --
 13 MS. JACKSON: If you don't know, you
 14 can just say you don't know.
 15 A. I don't know.
 16 Q. How many employees were there within Joyce's
 17 business unit?
 18 A. I'm not sure.
 19 Q. Again, I'll ask you, do you recall what his
 20 business unit was called?
 21 A. Not specifically.
 22 Q. Do you recall whether you or any member of the
 23 Appeals Committee undertook any steps to assess
 24 the makeup of Joyce's business unit?

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1 A. Not that I'm aware of.
 2 Q. How could you assess whether there was a sale or
 3 outsourcing of Joyce's business unit if you
 4 didn't know which business unit he was in?
 5 A. It was generally understood it was his unit.
 6 Q. On what basis do you say "generally understood"?
 7 A. There is documentation I reviewed.
 8 Q. What documentation -- can you refer me to what
 9 documents it was that provided you with this
 10 general understanding?
 11 A. Not specifically.
 12 Q. Did you review those documents in anticipation of
 13 your deposition testimony here today?
 14 A. Likely, yes.
 15 Q. Do you recall whether it was a letter, whether it
 16 was correspondence, an E-mail?
 17 MS. JACKSON: Objection.
 18 A. I don't recall.
 19 Q. Okay. Is it fair to say then that you didn't
 20 take as a member of the Appeals Committee, you
 21 did not take any steps to assess what the makeup
 22 was of Joyce's business unit?
 23 A. No. Because I think it was clear to us.
 24 Q. And you say it was clear to you based on

14 (Pages 50 to 53)

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1 documentation that was provided to the Appeals
 2 Committee?
 3 A. To my recollection, yes.
 4 Q. Were you provided with any documentation in
 5 addition to what was listed in Exhibit 2?
 6 MS. JACKSON: Objection.
 7 A. I can't recall.
 8 MS. JACKSON: Clarify when.
 9 Q. Do you understand the question?
 10 A. I understand the question.
 11 Q. Okay.
 12 A. I can't recall specifically.
 13 Q. You understand that I'm talking about, as far as
 14 a time period, when you were sitting on the
 15 Appeals Committee reviewing Joyce's appeal,
 16 correct?
 17 A. Right.
 18 Q. Of the documents listed in Exhibit 2, do any of
 19 those documents refresh your memory as far as
 20 which documents may have given you this clear
 21 understanding of what made up Joyce's business
 22 unit?
 23 A. There's papers on the sale of the business unit.
 24 I can't recall the specifics of it, though.

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1 Q. You're referring to what's stated as "fall
 2 2002" --
 3 A. Yes.
 4 Q. -- "working papers on sale of business unit"?
 5 A. Right.
 6 Q. Fall 2002, that preceded the sale of the Tower
 7 complex, correct?
 8 A. Correct.
 9 Q. So why would there have been working papers
 10 specific to Joyce's business unit in the fall
 11 2002?
 12 A. I'm not sure.
 13 Q. Is it possible that there were no documents in
 14 the working papers on the sale of the business
 15 unit with respect to Joyce's business unit?
 16 A. I can't recall.
 17 Q. Okay. What constitutes an outsourcing of a
 18 business unit?
 19 A. A general knowledge of outsourcing is outsourcing
 20 to an outside company. The job is moved to
 21 another company. Successive company.
 22 Q. And on what basis do you come to this definition
 23 of or your interpretation of an outsourcing of a
 24 business unit?

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1 A. My knowledge and review of the plan.
 2 Q. What about general knowledge?
 3 A. General knowledge, too. That's exactly part of
 4 the -- general definition of outsourcing.
 5 Q. Was this your understanding of what constituted
 6 an outsourcing of a business unit when you
 7 reviewed Joyce's appeal in November of 2004?
 8 MS. JACKSON: Objection.
 9 Q. Let me rephrase the question. This general
 10 knowledge of what you believe constitutes an
 11 outsourcing of a business unit that you just
 12 stated, was that your understanding of what
 13 constituted an outsourcing of a business unit
 14 when you reviewed Joyce's appeal in November of
 15 2004?
 16 A. It was my understanding based on reviewing all
 17 the documentation involved in the plan.
 18 Q. So you formed your understanding of what an
 19 outsourcing of a business unit was based on your
 20 review of the plan?
 21 A. That was part of my decision-making process.
 22 Q. In your experience as a member of the Appeals
 23 Committee, has there ever been an outsourcing of
 24 a business unit at Hancock?

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1 A. Can you say that again? I'm sorry.
 2 Q. In your experience as a member of the Hancock
 3 Appeals Committee, has there ever been an
 4 outsourcing of a business unit?
 5 A. Not that I'm aware of.
 6 Q. Is it typical in such circumstances that when
 7 there is an outsourcing of a business unit that
 8 an outsourcing contract with another company be
 9 executed? Is that your understanding of what
 10 typically is involved in an outsourcing?
 11 MS. JACKSON: Objection. We have
 12 provided you with other designees to speak on
 13 this topic from John Hancock, and Mr. Bisciotti
 14 is not one of them.
 15 MR. ROBBINS: I'm asking his experience
 16 as a member of the Appeals Committee who is in
 17 charge of interpreting the terms of the plan,
 18 terms of the summary plan description.
 19 Q. And I'm asking him in his experience is it
 20 typical in circumstances where based on your
 21 general knowledge as well when there is an
 22 outsourcing of a business unit that an
 23 outsourcing contract be executed with another
 24 company?

15 (Pages 54 to 57)

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1 as Exhibit 2?
 2 A. I believe so.
 3 Q. Were those documents listed on Exhibit 2 provided
 4 to employees?
 5 A. I don't know.
 6 Q. Would that be an important assessment for a
 7 member of the Appeals Committee to make as to
 8 what the expectations were of the employees at
 9 Hancock?
 10 A. They should know but they don't necessarily have
 11 to get those documents. They should know what a
 12 comparable position is but they didn't have to
 13 have those documents.
 14 Q. Okay. With respect to Exhibit 2, can you
 15 indicate which document assisted you in
 16 determining that the sale of the Tower complex
 17 involved a sale or outsourcing of Daniel Joyce's
 18 business unit?
 19 A. I can't recall exactly.
 20 Q. Do you recall, do you specifically recall that it
 21 was one of these documents, if any, that assisted
 22 you in determining that the sale of the Tower
 23 complex involved a sale or outsourcing of Daniel
 24 Joyce's business unit?

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1 A. I can't specifically recall.
 2 Q. Did you come to a conclusion as to whether the
 3 sale of the Tower complex involved a sale or
 4 outsourcing of Daniel Joyce's business unit?
 5 A. Sorry.
 6 Q. Did you come to a conclusion as a member of the
 7 Appeals Committee whether the sale of the Tower
 8 complex involved or resulted in an outsourcing or
 9 sale of Daniel Joyce's business unit?
 10 A. I'm not sure I quite see -- can you repeat that
 11 again?
 12 Q. Do you recall as a member of the Appeals
 13 Committee --
 14 A. Yeah.
 15 Q. -- determining that the sale of the Tower complex
 16 involved or resulted in an outsourcing or sale of
 17 Daniel Joyce's business unit?
 18 A. Yes.
 19 Q. You specifically recall coming to that
 20 conclusion?
 21 A. That's my recollection that we did.
 22 MS. JACKSON: Objection. It's been
 23 asked and answered.
 24 Q. What?

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1 A. It's my recollection.
 2 Q. What is it that you recall about -- was this a
 3 discussion in which it was determined?
 4 A. I couldn't recall the specifics.
 5 Q. Okay. Is it possible that it was within your own
 6 head that you came to this conclusion?
 7 MS. JACKSON: Objection.
 8 A. I couldn't say.
 9 Q. Is it fair to say from Mr. Mongeau's letter which
 10 has been marked as Exhibit 2 that no documents
 11 were provided to the Appeals Committee which
 12 assisted you in assessing whether this was a sale
 13 or outsourcing of Joyce's business unit?
 14 A. Some documents may have helped us but I'm not
 15 entirely sure.
 16 Q. Can you refer me to any documents which assisted
 17 you in determining whether there was a sale or
 18 outsourcing of Daniel Joyce's business unit?
 19 A. Nothing specifically I could point you to.
 20 Q. On what basis was Joyce originally denied
 21 severance benefits?
 22 A. My understanding is that a comparable position
 23 was offered.
 24 Q. Were you provided with a written document

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1 specifically referencing the basis on which Joyce
 2 was denied severance benefits?
 3 A. Yes. I do recall documentation to that regard.
 4 Q. What document is that?
 5 A. I can't refer to it specifically.
 6 Q. Do you recall what the document said?
 7 A. Not specifically. Generally he was offered a
 8 comparable position within the terms of the
 9 severance plan.
 10 Q. Prior to assessing whether Joyce was offered a
 11 comparable job by Beacon Capital, did the Appeals
 12 Committee arrive at a determination as to whether
 13 Joyce's business unit was sold or outsourced to
 14 Beacon?
 15 A. I don't recall specifically.
 16 Q. Do you recall, was this an outsourcing or a sale?
 17 Did this transaction, the sale of the Tower
 18 complex, did that constitute an outsourcing of a
 19 business unit or a sale of a business unit or
 20 neither?
 21 MS. JACKSON: Objection.
 22 A. I'm not sure I can answer that question.
 23 Q. Do you recall if at the time the Appeals
 24 Committee came to a determination whether it was

18 (Pages 66 to 69)

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1 MR. ROBBINS: I'm going to ask that we
 2 keep the speaking to a minimum. If you would
 3 like to object, you can object, but let's keep
 4 the speaking objections to a minimum.
 5 Q. Everything, of course, is if you know.
 6 A. Absolutely. As I just said.
 7 Q. Sure.
 8 Okay. That in fact did not occur,
 9 correct? The plan was not amended after the IT
 10 outsourcing was completed?
 11 A. I'm not sure when the IT outsourcing was
 12 completed.
 13 Q. Did you hear any appeals for severance based on
 14 the IT outsourcing?
 15 A. No, I didn't.
 16 Q. Joyce and many others were denied severance
 17 because Hancock determined that he and others
 18 were offered comparable jobs by Beacon, right?
 19 A. Correct.
 20 Q. Okay. As we stated earlier, in order to first
 21 assess whether an employee has been offered a
 22 comparable job, the summary plan description,
 23 which has been marked as Exhibit 4, states that
 24 there must be a determination that there has been

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1 a sale or an outsourcing of a business unit
 2 first, correct?
 3 A. It appears so in the SPD.
 4 Q. Okay. To the best of your knowledge, on what
 5 basis did the Hancock human resources department
 6 determine that the sale of the Tower complex
 7 involved or amounted to a sale or outsourcing of
 8 Joyce's business unit?
 9 A. By referring to the severance plan.
 10 Q. So you specifically recall that the human
 11 resources department at Hancock came to a
 12 conclusion that the sale of the Tower complex
 13 involved or amounted to a sale or outsourcing of
 14 Joyce's business unit?
 15 A. I couldn't say that specifically but in a fair
 16 reading of the plan I would come to that
 17 conclusion.
 18 Q. But I'm asking you, how do you know that the
 19 human resources department came to that
 20 conclusion? I know you came to a conclusion.
 21 But how do you know that the human resources
 22 department came to that conclusion?
 23 MS. JACKSON: Objection.
 24 A. That's -- I couldn't comment. I wasn't in their

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1 meetings on this decision so I'm just reviewing
 2 their decision.
 3 Q. But did they provide you with any documents
 4 stating that on the basis for which Joyce's
 5 appeal, Joyce's claim for severance benefits was
 6 denied was in part due to the fact this was a
 7 sale or outsourcing of his unit?
 8 A. I couldn't recall that exactly.
 9 Q. Were there any documents that you were provided
 10 from the human resources department or from
 11 another source which reflected the human
 12 resources department's conclusion that this
 13 transaction did involve or amount to a sale or
 14 outsourcing of Joyce's business unit?
 15 A. I don't remember specifically seeing anything in
 16 that regard.
 17 Q. Okay. All right. To the best of your knowledge,
 18 what steps did the human resources department
 19 take in order to assess whether the sale of the
 20 Tower complex involved or amounted to a sale or
 21 outsourcing of Joyce's business unit?
 22 MS. JACKSON: Objection.
 23 A. I couldn't make that -- I couldn't assume they
 24 made -- I could only assume they based their

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1 decision based on the severance plan.
 2 Q. So you assumed that they made their decision
 3 based -- you assumed they made a decision one way
 4 or another whether it was a sale or outsourcing
 5 of the business unit; is that correct?
 6 A. I assume so.
 7 Q. Okay.
 8 MR. ROBBINS: I'm sorry.
 9 MS. MORTON: I'm talking to counsel.
 10 MR. ROBBINS: Okay.
 11 MS. JACKSON: To the extent it's
 12 helpful to you getting that information, Mr.
 13 Bisciotti does have -- it will be helpful if you
 14 just state what you do know instead of assuming.
 15 THE WITNESS: That's fine. I
 16 understand.
 17 MR. ROBBINS: Could we mark this
 18 document as Exhibit 7, please?
 19 (Draft marked Exhibit No. 7.)
 20 MR. ROBBINS: And similarly, could we
 21 mark this document as Exhibit 8?
 22 (Draft marked Exhibit No. 8.)
 23 Q. Did the crux of your review of Joyce's appeal
 24 center on determining whether Joyce was offered a

22 (Pages 82 to 85)

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1 A. I'm not sure why I said that.
 2 MR. ROBBINS: Please allow him to
 3 answer. He can answer the question.
 4 MS. JACKSON: Objection. This document
 5 --
 6 MR. ROBBINS: Please allow him to
 7 answer.
 8 MS. JACKSON: -- is not the letter that
 9 was provided and you know that. You're
 10 misrepresenting this on the record.
 11 MR. ROBBINS: I'm asking --
 12 MS. JACKSON: This is the E-mail. This
 13 is not the letter that's referred to in 7.6.
 14 MR. ROBBINS: I'm asking him about
 15 this. Please. The speaking objections have got
 16 to stop.
 17 MS. JACKSON: This is --
 18 MR. ROBBINS: I would like to make a
 19 note of this.
 20 MS. JACKSON: This is being
 21 deliberately misleading.
 22 MR. ROBBINS: I'm asking him a
 23 question. He can answer the question. Please.
 24 This is outrageous. This is outrageous that I

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1 can't ask him. Your objection will be duly noted
 2 on the record but speaking objections are
 3 strictly prohibited.
 4 Q. Do you understand the question, Mr. Bisciotti?
 5 A. Why did I write that, "in my attempt to be as
 6 general as possible"?
 7 Q. Right.
 8 A. I'm not sure why I wrote that. I think we wrote
 9 enough in there that you could say we had
 10 specific reasons. Let's put it that way.
 11 Q. I'm asking you a question about this particular
 12 phrase, this particular E-mail.
 13 A. I'm just trying to put it in context for you.
 14 That's all.
 15 Q. I understand. Was your E-mail in response to
 16 Kathy Suchenski's E-mail below where she states,
 17 "I don't know that we have to go into specifics"?
 18 A. It appears so.
 19 Q. Mr. Bisciotti, I've placed a document before you.
 20 Have you ever seen this document before?
 21 A. I may have.
 22 Q. Do you specifically recall ever reviewing this
 23 document?
 24 A. If it was in the package of material I received

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1 for review of the committee, I reviewed it most
 2 likely.
 3 Q. If you would like, you can take a moment to
 4 review the document.
 5 A. I will.
 6 Q. If you don't mind, if you don't mind taking
 7 Erin's copy, we can have that marked as Exhibit
 8 13.
 9 (6/3/03 E-mail string marked Exhibit
 10 No. 13.)
 11 A. Okay. I'm ready.
 12 Q. Did you have a copy of this document with you
 13 when reviewing Mr. Joyce's appeal?
 14 A. I don't recall exactly.
 15 Q. Would you characterize this as a document that
 16 would be important to your decision with respect
 17 to Mr. Joyce's appeal?
 18 A. It may be.
 19 Q. Why may it be?
 20 A. Well, I may or may not need this.
 21 Q. Well, you conducted the appeal?
 22 A. It would be helpful. Let's put it that way.
 23 Q. Okay. It would be helpful. It would be helpful
 24 because -- isn't it true this is relevant to your

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1 decision whether to deny severance?
 2 A. Correct.
 3 Q. If you could please take a look at the last two
 4 sentences of the second paragraph from the top of
 5 Joan DiCicco's E-mail to Dan Joyce. Are these
 6 final two sentences which start, "I should point
 7 out that the assessment was against normative
 8 data," are these last two sentences accurate
 9 representations?
 10 A. As far as I know they are.
 11 Q. Okay. Why is that?
 12 A. Because that's what they say.
 13 Q. Based on the knowledge that you have, was this an
 14 accurate statement by Miss DiCicco?
 15 A. As far as I know, yes.
 16 Q. Was Beacon's benefit offering in fact compared to
 17 benefits, benefit offerings in the property
 18 management industry?
 19 A. As far as that data was available, I was under
 20 the impression that yes, it was.
 21 Q. Does it say here as far as data is available?
 22 A. I don't -- it doesn't say that.
 23 Q. In fact, it says in this case the assessment was
 24 done with respect to the property management

41 (Pages 158 to 161)

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1 attorney can instruct you not to answer but if we
2 have to take it up to the court, I'll take it up
3 in court.

4 What documents, if any, did you review
5 in anticipation of your testimony here today?

6 MS. JACKSON: I'm renewing my objection
7 on the basis of the attorney-client privilege as
8 well as attorney work-product doctrine. I'm
9 instructing Mr. Bisciotti not to answer the
10 question on that basis.

11 MR. ROBBINS: Okay. That's all I have.

12 MS. JACKSON: Okay. I have a few
13 questions.

14 EXAMINATION BY MS. JACKSON:

15 Q. Mr. Bisciotti, numerous times in response to a
16 question that Mr. Robbins posed to you your
17 answer was "I don't know" or "I don't recall" or
18 "I don't specifically recall" or "I can't
19 recall." Something of that nature. Is that
20 because this occurred approximately a year and a
21 half to two years ago?

22 A. That's correct.

23 Q. All the events that are at issue that you're
24

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1 being asked about?

2 A. Correct.

3 MR. ROBBINS: Objection.

4 Q. Looking at Exhibit 3, which is the John Hancock
5 Financial Services, Inc., Severance Pay Plan.

6 A. Okay.

7 Q. Turning your attention to section 3.2 in that
8 plan.

9 A. Yes.

10 Q. Can you explain how the committee understood and
11 interpreted provisions 3.2 C and 3.2 D?

12 A. Sure.

13 MR. ROBBINS: Objection. In what
14 context?

15 MS. JACKSON: In the context of the
16 case that is at issue. In the comparable text of
17 Daniel Joyce's case.

18 A. As we reviewed the decision by John Hancock
19 whether the associates were entitled or not
20 entitled to severance, we analyzed the case.
21 Where "employment is not terminated for purposes
22 of this plan if an employee is offered a
23 comparable position" --

24 Q. You're referring to 3.2 C right now?

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1 A. I'm referring to 3.2 C. Essentially there is no
2 severance for -- if someone is "offered a
3 comparable position, as determined by the
4 company, as an employee with, or provides
5 services in any capacity to, a successor
6 company."

7 A successor company is defined --
8 defined term in article 2. "An entity
9 unaffiliated with the company which performs the
10 services previously performed by an employee's or
11 a participant's former work unit with the
12 company." And in determining -- and to getting
13 to that basically, we determined that Beacon was
14 a successor employer, clearly, and our decision
15 what was comparable was --

16 Q. Let me stop you right there for a moment.

17 A. Go ahead.

18 Q. Your reference to the term "successor company" in
19 the plan --

20 A. Yes.

21 Q. How did you determine that Beacon was a successor
22 company?

23 A. It's unaffiliated with John Hancock. They're
24 performing the services previously performed by

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1 the employee and -- or that previous employer --
2 employee's work unit with the company. Just says
3 -- it's defined here. Beacon in my mind is
4 clearly a successor company. It's unaffiliated
5 with John Hancock and they -- the work unit which
6 Mr. Joyce was a part of went to that successor
7 company.

8 Q. Are you aware whether the benefits supplement,
9 the 2002 version of the benefits supplement to
10 the Summary Plan Description that Hancock issues
11 to its employees contains a provision stating
12 that the severance pay plan, the language in the
13 severance pay plan will govern when there is any
14 difference between the language in the benefits
15 supplement and the plan?

16 A. Yes, I am.

17 Q. And were you aware of that at the time that you
18 considered the appeal?

19 A. Yes, we were. Yes, I was.

20 Q. Is that the reason that you focused on the
21 language in the severance pay plan throughout
22 your consideration of the appeal?

23 A. That's correct.

24 Q. Let me call your attention to Exhibits 7 and 8.

44 (Pages 170 to 173)

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1 Bisciotti?
 2 A. No, I'm not.
 3 Q. So you were not able to take down every word that
 4 occurred, that was spoken at the Benefits Plan
 5 Appeal Committee meetings, were you?
 6 A. No, I wasn't.
 7 Q. We were just looking at Exhibit 12, Mr.
 8 Bisciotti. And we had established that that --
 9 and it was established earlier in the deposition
 10 today that this is a copy containing minutes from
 11 the Company Benefit Plan Appeal Committee from
 12 December 9, 2004, correct?
 13 A. Correct.
 14 Q. And those minutes are contained in the E-mail at
 15 the bottom of the page going from page one to two
 16 of Exhibit 12; is that right?
 17 A. Correct.
 18 Q. Now, Mr. Robbins asked you a question. He had
 19 asked you to read from section 7.6 of the
 20 severance pay plan.
 21 A. Okay.
 22 Q. He had asked you to read sentence two. Is that
 23 accurate? Why don't you get there and I can ask
 24 you a question?

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1 He had asked you to read the second
 2 sentence.
 3 A. Yes.
 4 Q. It states, "The decision," referring to the
 5 appeal committee's decision, "shall be in writing
 6 and shall include specific reasons for the
 7 decision and specific references to the
 8 provisions of the plan on which the decision is
 9 based."
 10 A. Correct.
 11 Q. After asking you to read that sentence, Mr.
 12 Robbins asked you to refer back to Exhibit 12.
 13 Is that accurate?
 14 A. Correct.
 15 Q. And then he asked you to explain why you had
 16 stated that you were trying to be as general as
 17 possible with respect to the minutes --
 18 MR. ROBBINS: Objection.
 19 Q. -- that appear in the E-mail.
 20 A. Correct.
 21 Q. But it's your understanding that 7.6 refers to
 22 specifying reasons for the decision of the
 23 committee?
 24 A. Right.

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1 Q. And it does not refer to the minutes that are set
 2 forth by the committee?
 3 A. That's correct.
 4 Q. So in fact, would it be accurate to say that your
 5 understanding is that section 7.6 of the
 6 severance pay plan has nothing to do with the way
 7 that the committee writes its minutes; is that
 8 accurate?
 9 MR. ROBBINS: Objection.
 10 A. That's correct.
 11 Q. If you could turn your attention to Exhibit 13
 12 for a moment.
 13 A. Okay.
 14 Q. And if you could look at the last sentence of the
 15 second paragraph.
 16 A. Okay.
 17 Q. And could you read that sentence out loud?
 18 A. "The assessment was not a comparison to John
 19 Hancock's benefits package and we did not make
 20 any such comparison."
 21 Q. Is it accurate to say that your understanding of
 22 the word "assessment" is the entire overall
 23 assessment?
 24 MR. ROBBINS: Objection.

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1 Q. Of Beacon's benefit package?
 2 MR. ROBBINS: Objection.
 3 A. Correct.
 4 Q. And to the extent that the assessment does refer
 5 to Beacon's entire benefit package, Miss
 6 DiCicco's statement is accurate, isn't it?
 7 MR. ROBBINS: Objection.
 8 A. Correct.
 9 Q. Just one moment, please.
 10 If you can just give us a moment. I'll
 11 confer with co-counsel.
 12 (Recess.)
 13 Q. Mr. Bisciotti, were you aware that you were
 14 required to state specific reasons for your
 15 decision for denying the appeal of Daniel Joyce
 16 and other employees at Hancock?
 17 A. Yes.
 18 Q. And I would like to call your attention to
 19 Exhibit 14.
 20 A. Sorry. I shuffled these around.
 21 Okay.
 22 Q. Calling your attention to paragraph two of that
 23 letter. If you could just review that paragraph
 24 for a moment.

46 (Pages 178 to 181)

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1 A. Okay. General review was -- "the committee has
2 thoroughly reviewed all the facts and
3 circumstances" --
4 Q. Actually, if you can just read that paragraph to
5 yourself and then I want to ask you --
6 A. I'm sorry.
7 Q. That's okay.
8 A. Okay.
9 Q. Okay. If you can read -- now if you can read
10 that out loud.
11 A. The entire paragraph?
12 Q. Yes.
13 A. "The committee has thoroughly reviewed all the
14 facts and circumstances regarding your clients'
15 severance appeals. In addition, John Hancock
16 performed a competitive assessment analysis based
17 on industry data which considered the
18 competitiveness of selected benefits versus
19 industry/normative data and assessed Beacon's
20 employee benefits package with respect to John
21 Hancock's severance pay plan comparable job
22 provision.
23 "Based on this review and the
24 competitive assessment analysis, the committee

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1 has voted unanimously to uphold the denial."
2 Q. Now, I'm going to call your attention to the term
3 "comparable" -- "Hancock severance pay plan
4 comparable job provision."
5 A. Okay.
6 Q. Is it your understanding that that reference to
7 the "comparable job provision" in fact refers to
8 3.2 C of the severance pay plan?
9 MR. ROBBINS: Objection.
10 A. Correct.
11 MR. ROBBINS: Is that your
12 understanding now or was that your understanding
13 then? I just want to clarify.
14 THE WITNESS: That's always been my
15 understanding.
16 Q. So as far as you understood it, paragraph two
17 addresses both the specific reasons for the
18 denial as well as references the specific
19 provisions of the plan on which the appeal
20 committee based its decision?
21 MR. ROBBINS: Objection.
22 Q. Is that correct?
23 A. Correct.
24 Q. Okay. We have no further questions.

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1 MR. ROBBINS: If I can just have 30
2 seconds.
3
4 EXAMINATION BY MR. ROBBINS:
5 Q. Mr. Bisciotti, why were you attempting to be as
6 general as possible in the minutes of your
7 meeting on December 9, 2004?
8 A. I'm not sure why I wrote that.
9 Q. Are there rules governing the specificity of the
10 minutes of Appeals Committee meetings?
11 A. Not that I'm aware of.
12 Q. That's all I have.
13 A. Okay.
14 (Whereupon, the deposition was
15 concluded at 4:14 p.m.)
16
17
18
19
20
21
22
23
24

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1 Excerpt from Rule 30(e):
2 Submission to Witness; Changes; Signing.
3
4 When the testimony is fully transcribed,
5 the deposition shall be submitted to the witness
6 for examination and shall be read to or by
7 him/her, unless such examination and reading are
8 waived by the witness and by the parties. Any
9 changes in form or substance which the witness
10 desires to make shall be entered upon the
11 deposition by the officer with a statement of the
12 reasons given by the witness for making them.
13

8
9 I, Brian J. Bisciotti, have examined the
10 above transcript of my testimony and it is true
11 and correct to the best of my knowledge,
12 information and belief. Any corrections are
13 noted on the errata sheet.
14
15
16

17 Signed under the pains and penalties of
18 perjury this day of , 2006.
19
20
21
22
23
24

Deponent's Signature

47 (Pages 182 to 185)

KACZYNSKI REPORTING

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Bonn Dep. Tr.

Volume: I
Pages: 1 to 97
Exhibits: 1 to 12

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *

DANIEL JOYCE, Individually
and on behalf of a class of
others similarly situated,
Plaintiff,

vs.

Civil Action No.
05-11428 WGY

JOHN HANCOCK FINANCIAL SERVICES,
INC., SEVERANCE PAY PLAN and
JOHN HANCOCK FINANCIAL SERVICES,
INC., as Administrator and
Fiduciary of the John Hancock
Financial Services, Inc.,
Severance Plan,
Defendants.

* * * * *

PURSUANT TO THE MUTUAL CONFIDENTIALITY AGREEMENT

DEPOSITION OF WILLIAM A. BONN, a
witness called on behalf of the Plaintiffs, taken
pursuant to the applicable provisions of the Federal
Rules of Civil Procedure before Cynthia A. Powers,
Shorthand Reporter and Notary Public in and for the
Commonwealth of Massachusetts, at the law offices of
Todd & Weld, LLP, 28 State Street, Boston,
Massachusetts, on Tuesday, May 16, 2006, commencing
at 2:15 p.m.

* * * * *

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72 Chandler Street, Suite 3
Boston, Massachusetts 02116
(617) 426-6060

1 Goodwin to do some comparison, but I -- honestly,
2 that's one thing I'm not clear on. I'm quite certain
3 I did, but I don't recall.

4 Q. And in your present life or any other
5 version, as general counsel or working for the
6 insurance companies, do you know how accessible this
7 information would be?

8 A. I honestly don't, but I would think
9 that just if someone -- so often in the real estate
10 world, as I usually joke, there are only 200 of us
11 and the rest of us are name changes and mirrors. You
12 can pick up the phone at one of those companies and a
13 senior person might be willing to share that
14 information with you as long as they didn't think
15 you're using it to steal their employees.

16 MR. PETERS: I'm done. Thank you.

17 THE WITNESS: Well, you're very
18 welcome.

19 MS. JACKSON: I am going to have
20 several questions for you. I'm wondering what would
21 be --

22 MR. PETERS: I'll switch.
23
24

1 (Marked Exhibit 7; Term Sheet for
2 Purchase and Sale Agreement)

3 Q. Mr. Bonn, as you've just been told,
4 that's a document that has been marked as Exhibit 7.
5 You can just take a minute to look it through. Do
6 you recognize that document, Mr. Bonn?

7 A. I have seen thousands of documents
8 such as this so -- but I don't recall it directly,
9 but I'm -- if this looks like it's for the sale of
10 the John Hancock Tower Complex, it looks like it was
11 prepared by Morgan Stanley perhaps or John Hancock,
12 so I would assume I saw this since we would have
13 received the bid package.

14 Q. This document as indicated by the
15 front page is the term sheet for the purchase and
16 sale agreement for the tower complex that Hancock had
17 issued to bidders in connection with the sale of the
18 tower complex?

19 A. Yes.

20 Q. I take it from your answer that you
21 may have seen this document before, would that be
22 accurate?

23 A. Yes.

24 Q. Are you familiar with the terms

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1 CROSS EXAMINATION

2 BY MS. JACKSON:

3 Q. Mr. Bonn, we were introduced earlier.
4 My name is Erin Jackson. I'm an attorney with
5 Goodwin Procter. I'm representing the defendants in
6 this case, which is John Hancock Financial Services,
7 Inc. Severance Pay Plan as well as John Hancock
8 Financial Services, Inc., the company itself.

9 Is there any reason you can think of
10 why you may not be able to answer the questions that
11 I'm posing today truthfully and accurately?

12 A. Only if something is subject to a
13 confidentiality agreement and the purchase and sale
14 agreement for the purchase of the tower complex or
15 ancillary documents thereto.

16 Q. Sure.

17 MS. JACKSON: Can you please mark this
18 for identification as Defendants' Exhibit 1.

19 MR. PETERS: Can I recommend just so
20 we can keep it together that we just mark them
21 serially? Exhibit 7 will be reflected on the record
22 that you introduced it.

23 MS. JACKSON: Sure. We can stick with
24 that.

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1 contained in the term sheet as they apply to the sale
2 of the tower complex?

3 A. Well, this is just a term sheet. It's
4 a wish list for John Hancock. So that doesn't mean
5 that any of these terms at all appeared in the final
6 purchase and sale agreement.

7 Q. Okay. Do you recall, are you familiar
8 with the terms in this, as you said this bid, this
9 bid sheet, this wish list?

10 A. No. I mean, I'm reading it again now.
11 It's been over four years since I would have seen
12 this. I've seen so many of these in my career. I
13 would have to read it all the way through if you want
14 me to respond to particular thing.

15 Q. I can direct your attention to the
16 provision I'd like to ask you about. Turn to page 94
17 on that sheet and if you could read through the
18 section entitled, Employees.

19 A. Okay. Yes, I've read the section,
20 employees.

21 Q. Does that refresh your recollection
22 regarding that term that Hancock had put out there to
23 bidders as a potential part of the sale of the tower
24 complex?

1 the complex. I think this is a summary sheet which
2 would be a distillation of 119 and 120. It looks
3 like 121 is sort of a summary.

4 Q. Okay. If you look at pages 119 and
5 120, how did Beacon determine that the specific
6 Hancock employees listed on those two pages would be
7 offered jobs with Beacon, the ones -- the pages 119
8 and 120.

9 A. Yes.

10 Q. How did Beacon determine that the
11 Hancock employees listed on this page, the ones with
12 the notation "hire," how did Beacon determine that
13 they would be offered jobs with Beacon?

14 A. Interviews and conversations with
15 Barry Camiel and John Durnan as to their
16 recommendations.

17 Q. Was it based in part on the positions
18 that these individuals held?

19 A. Well, as I think I indicated earlier,
20 there could be reasons we may not have thought
21 someone had the skill sets to do the particular job,
22 or they might not have been as highly thought of by
23 Barry Camiel or John Durnan. We would have no way of
24 knowing that -- they were Hancock employees -- as to

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1 what their history of employment was, whether they
2 were considered to be a good worker, not a good
3 worker.

4 Q. But for the individuals who the
5 notation is written "hire" --

6 A. Yes.

7 Q. -- those individuals, would it be
8 based in part on the position and the function that
9 they performed?

10 MR. PETERS: Asked and answered.

11 A. Well, yes. I mean, if we were getting
12 a recommendation from Barry Camiel and John Durnan
13 and then from an interview that these folks appeared
14 to have the skill sets and experience to do the
15 particular job, yes.

16 Q. Thank you. I just wanted to be clear
17 that I was understanding you right. And correct me
18 if I'm wrong, I think your answer indicated that
19 Hancock through Barry Camiel and John Durnan provided
20 input regarding which employees should be hired?

21 A. Yes, they did.

22 MS. JACKSON: If you could, please
23 mark that for identification as Exhibit 10 I believe
24 we are up to.

1 (Marked Exhibit 10; Hancock Personnel
2 to be Hired by Beacon-65 Total)

3 Q. Mr. Bonn, you're looking at a document
4 that's just been marked as Exhibit 10. Do you
5 recognize it?

6 A. Yes, I do.

7 Q. What is that document?

8 A. This is a document that I believe was
9 prepared by our company to indicate, try to match up
10 the names of persons that whom, to whom we decided to
11 extend offers that Hancock had indicated would be
12 available for us to hire and match them up by the
13 position to which we thought we would offer them a
14 job.

15 Q. Would it be fair to say that that
16 document in your hands that's been marked Exhibit 10
17 is a finalized version of the pages in the document
18 that we just looked at, which is Exhibit 9, pages
19 BCPM 119 and BCPM 120?

20 MS. DeIASI: Objection to form.

21 A. I believe so. But once again, what's
22 frustrating for me as an attorney is there are no
23 dates on the documents, but I believe this came
24 afterward, yes. Although I can't be certain of that

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1 because how we would have 65 on the first one unless
2 we had gone through this exercise. These might have
3 been contemporaneous.

4 MS. DeIASI: Can we take a short
5 break?

6 MS. JACKSON: Oh, sure.

7 (Whereupon, a recess was taken)

8 BY MS. JACKSON:

9 Q. Mr. Bonn, I'm going to call your
10 attention back to an exhibit that we used first in
11 the deposition, Exhibit No. 1.

12 A. Okay.

13 Q. This list here, does that include all
14 of the Hancock employees who accepted Beacon's job
15 offers to the best of your knowledge?

16 A. I believe so, yes.

17 Q. And is the information that's included
18 in this document under other categories; you know,
19 start date, title, salary, bonus, hours per week, all
20 the various other categories, is that information to
21 the best of your knowledge accurate based on Beacon's
22 business practices?

23 A. Correct. I would have no personal
24 knowledge as to whether these numbers tie out as the

1 salary that was ultimately agreed to in the letters,
2 but it would be our business practice to accumulate
3 this information in this format, yes.
4 Q. And one other question for you on that
5 document. If I represented to you that I counted the
6 number of names on that document and that it came up
7 to a total of 73 names, would that sound about
8 accurate to you?

9 A. Yes, it would.

10 Q. Certainly if you'd like to count them
11 you can.

12 A. No, I have a recollection vaguely that
13 we made, we hired a little over seventy people.

14 MS. JACKSON: Could you please mark
15 that for identification as Exhibit 11.

16 (Marked Exhibit 11; Spreadsheets)

17 Q. Mr. Bonn, you're looking at a document
18 that we've just marked as Exhibit 11. Do you
19 recognize that document?

20 A. I don't have recollection of it at
21 this moment, but -- no, I don't. It appears to be a
22 list of employees.

23 Q. Would that be a list of employees that
24 Hancock intended to hire as the new owner of the

1 know how that document that you're looking at now,
2 which we've just marked as Exhibit 11, do you know
3 how that one relates to Exhibit 1?

4 MS. DeIASI: Objection.

5 MR. PETERS: Objection.

6 A. I don't know what you mean, relate.
7 I'm really sorry. I don't recall seeing Exhibit 11
8 before. So I don't know if it was prepared the same
9 time or subsequent to Exhibit 1 or Exhibit 10.

10 Q. Okay. We looked at two documents
11 earlier -- they were Exhibits 9 and 10 -- which
12 indicated that Beacon was planning on hiring
13 approximately 65 Hancock employees; is that right?

14 A. Yes.

15 Q. And then we just looked at Exhibit 11
16 as well as Exhibit 1, and I represented to you that
17 the number of names I had counted was approximately
18 73; is that correct?

19 A. Yes.

20 Q. Do you know how it was that Beacon
21 would have moved from thinking it would be hiring
22 about 65 to ultimately hiring about 73?

23 A. I don't recall if we ended up
24 extending offers to some people that initially the

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1 tower complex?

2 A. Do you mean that Beacon would intend
3 to hire?

4 Q. Yes, that Beacon would have intended
5 to hire?

6 A. I honestly don't recall this. It does
7 say BCP proposed salary and shift differential and to
8 whom the person reports or would report, but I don't
9 recall if, quite frankly if this is something that we
10 prepared or this was something that was given to us.
11 I would assume it was us, prepared by us, Beacon,
12 because BCP proposed salary. I just don't recognize
13 this.

14 Q. Based on what you can gather from the
15 document, does it appear to be the preliminary list
16 of Hancock employees that Beacon wanted to make job
17 offers to to run the tower complex?

18 MR. PETERS: Objection.

19 A. To be honest with you, once again
20 there's no date on it. I don't know if it's
21 preliminary or it comes subsequent to Exhibit 10
22 where it lists titles and -- I recall seeing
23 Exhibit 10. I don't recall seeing this one.

24 Q. Well, let me ask you this. Do you

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1 recommendation might have been from Barry Camiel or
2 John Durnan not to make an offer to those people or
3 whether Hancock subsequently told us there were more
4 people potentially available. I honestly don't
5 recall that. I wouldn't be surprised if it's the
6 former; that we ended up making an independent
7 determination, we thought that people did have the
8 skill sets.

9 Q. I'd like to turn now toward the
10 selection of the benefits that Beacon elected to
11 offer to employees that it was hiring for the tower
12 complex. We touched on this a little bit earlier.
13 We might be going over some questions we asked
14 before.

15 How did Beacon determine which
16 benefits it would offer to the Hancock employees that
17 it was hiring to work for Beacon in the tower
18 complex?

19 MR. PETERS: Objection.

20 MS. DeIASI: Objection.

21 A. I do think I went over that in some
22 detail and I -- can you repeat the question again,
23 please?

24 Q. Just briefly, how did Beacon make the

DiCicco Dep. Tr.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11428-WGY

DANIEL JOYCE, Individually and on *
behalf of a class of others *
similarly situated, *
Plaintiff, *
v. *
JOHN HANCOCK FINANCIAL SERVICES, *
INC., and JOAN M. DiCICCO, *
Defendants. *

PURSUANT TO MUTUAL CONFIDENTIALITY AGREEMENT

DEPOSITION OF JOAN M. DiCICCO, taken
pursuant to the applicable provisions of the
Federal Rules of Civil Procedure, before Susan L.
Prokopik, Registered Merit Reporter and Notary
Public in and for the Commonwealth of
Massachusetts, at the offices of Todd & Weld LLP,
28 State Street, Boston, Massachusetts, on
Wednesday, May 24, 2006, at 10:33 a.m.

KACZYNSKI REPORTING
72 CHANDLER STREET, SUITE 3
BOSTON, MASSACHUSETTS 02116
(617) 426-6060

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11428-WGY

DANIEL JOYCE, Individually and on *
behalf of a class of others *
similarly situated, *
Plaintiff, *

v. *

JOHN HANCOCK FINANCIAL SERVICES, *
INC., and JOAN M. DiCICCO, *
Defendants. *

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Wednesday, May 24, 2006, at 10:33 a.m.

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BOSTON, MASSACHUSETTS 02116
(617) 426-6060

I N D E X

EXAMINATION BY MR. ROBBINS.....Page 4

E X H I B I T S

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APPEARANCES:

ON BEHALF OF THE PLAINTIFF:

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ON BEHALF OF THE DEFENDANT JOHN HANCOCK
FINANCIAL SERVICES, INC., and THE DEPONENT:

ANTHONY M. FEEHERRY, ESQ.
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(617) 572-9201

P R O C E E D I N G S

JOAN M. DiCICCO

having been satisfactorily identified and duly
sworn by the Notary Public, was examined and
testified as follows:

MR. ROBBINS: Okay. Tony, the usual
stipulations?

MR. FEEHERRY: Absolutely.

EXAMINATION BY MR. ROBBINS:

Q. Okay. The witness having been sworn in, could
you please state your name and address for the
record?
A. Mm-hmm. Joan DiCicco. D I capital C I C C O.
109 Wildwood Avenue, W I L D W O O D, Braintree,
Massachusetts.
Q. Miss DiCicco, we met outside. My name is Seth
Robbins. And as you know, I represent Daniel
Joyce as the plaintiff individually and on behalf
of potentially others similarly situated in an
action involving John Hancock Financial Services,
Inc. Your presence has been requested here today
because you have been designated by your employer

1 payment in an amount determined by the company
2 but not to exceed \$2,500 to be used for
3 employability expenses," how were employability
4 expenses determined by Hancock?

5 A.I believe the -- the paragraph below it talks
6 about it.

7 Q.I believe that's what employability expenses
8 include, but how was the determination made by
9 the company as far as how much they're going to
10 pay up to \$2,500?

11 A.I don't know.

12 Q.When did Hancock arrive at a definition of
13 comparable job -- strike that. When did Hancock
14 arrive at a definition of comparable position?

15 MR. FEEHERRY: Comparable position.
16 Objection.

17 A.What do you mean by "Hancock"?

18 Q.I mean John Hancock Financial Services, Inc.

19 A.I don't know specifically.

20 Q.Was there a time when John Hancock Financial
21 Services, Inc., arrived at a definition of
22 comparable position?

23 A.Yes.

24 Q.Did that occur before the sale of the Tower

1 finalized definition was reached regarding
2 comparable position?

3 MR. FEEHERRY: Objection. You can
4 answer.

5 A.I believe there were two -- at least two. There
6 may have been more.

7 Q.Do you recall at what time the first draft was
8 drafted?

9 A.I don't recall exactly.

10 Q.Was the definition of comparable finalized by the
11 time the severance plan was amended? And I'm
12 referring to the severance plan being amended on
13 November 18, 2002.

14 A.I don't believe so.

15 Q.Is it your understanding that Hancock gets to
16 define comparable position in any way it sees
17 fit?

18 A.That's my understanding --

19 MR. FEEHERRY: Objection.

20 A.-- that the plan document says that it's as
21 determined by the company.

22 Q.And who within the company gets to determine what
23 the definition of comparable position would be?

24 A.The plan --

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1 complex to the best of your memory?

2 MR. FEEHERRY: Objection.

3 A.Could you ask the question again?

4 Q.Sure. I'm trying to narrow down a time frame
5 when we may have, there may have been a finalized
6 definition of comparable position. Would that
7 have, would Hancock -- strike that. Did Hancock
8 arrive at a final definition of comparable
9 position prior to May 30, 2003?

10 A.I think so.

11 Q.And on what basis do you believe so?

12 A.I'm trying -- based on my memory of the time line
13 of things happening. Of --

14 Q.Was the definition of comparable position a work
15 in progress over a period of time?

16 A.Yes.

17 Q.Were there draft documents setting forth the
18 definition of comparable position?

19 A.Yes.

20 Q.Or comparable job?

21 A.Yes.

22 Q.How many drafts, if you're aware, of -- if you're
23 able to answer this question, how many drafts
24 were there that went back and forth until a

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1 MR. FEEHERRY: Objection. Calls for a
2 legal conclusion. Go right ahead.

3 A.It's my understanding it's the plan
4 administrator.

5 Q.And who is the plan administrator?

6 A.Page Palmer.

7 Q.On what basis do you say Page Palmer was the plan
8 administrator?

9 A.As my knowledge as a member of the human resource
10 professional community.

11 Q.Did you ever receive any documents or receive any
12 communications indicating that Page Palmer is the
13 plan administrator of the Hancock Severance Pay
14 Plan?

15 MR. FEEHERRY: Objection.

16 A.I may have. I may have.

17 Q.Do you specifically recall seeing any documents
18 in which Page Palmer was designated as the plan
19 administrator for the Hancock Severance Pay Plan?

20 A.I don't specifically recall that.

21 Q.Do you specifically recall any conversations with
22 anyone in which it was communicated to you that
23 Page Palmer has been designated or had been
24 designated as the plan administrator for the

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1 A. Yes.
 2 Q. Can you describe for me the, quote, unquote,
 3 initial list of potential investors that Morgan
 4 Stanley developed?
 5 A. It was a list of companies that could be
 6 prospective buyers of the Tower complex.
 7 Q. Do you recall any companies that were on this
 8 list?
 9 A. No.
 10 Q. You don't have to name all of them. Any of them?
 11 A. No.
 12 Q. Were they all property management companies?
 13 A. I don't recall.
 14 Q. What criteria were you using to find the, as you
 15 state, best matches?
 16 A. I was asking Paul Crowley to call me so that he
 17 and I could talk about whether or not -- whether
 18 he could identify companies that would be within
 19 Beacon's industry.
 20 Q. And what industry was that?
 21 A. Property management.
 22 Q. What did you mean by "zeroing in on the most
 23 relevant companies for the analysis"?
 24 A. The same thing as identified below when I talked

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1 about best matches.
 2 Q. Okay. Does the E-mail above your E-mail from
 3 Paul Crowley reflect his response to your E-mail
 4 to him?
 5 A. Yes.
 6 Q. Is the BBJ the Boston Business Journal?
 7 A. I don't know.
 8 Q. Do you know what he was referring to when he
 9 said, "I understand that JH gave you a list from
 10 the BBJ"?
 11 A. I know that JH refers to John Heavey and that he
 12 was giving me a list that some entity had
 13 identified as top real estate firms.
 14 Q. Is this list from the BBJ that Paul Crowley is
 15 referring to the same document as your initial
 16 list of potential investors that was provided to
 17 you by Morgan --
 18 A. I don't know.
 19 Q. -- Stanley? If I can finish. That was provided
 20 to you by Morgan Stanley?
 21 A. I don't know.
 22 Q. Is it your understanding these could be two
 23 separate lists?
 24 A. They could be, yes.

1 Q. Okay. What are companies within the building
 2 trades industry?
 3 A. He's referring -- building trades industry would
 4 be an industry where the -- where the services
 5 rendered are around maintenance of buildings
 6 through trade professions such as electricians,
 7 et cetera.
 8 Q. And he makes reference that a company called
 9 BTE/Balco is a company within the building trades
 10 industry, correct?
 11 A. Yes.
 12 MR. ROBBINS: Can you mark this as
 13 Exhibit 8?
 14 (List of Area's Largest Office
 15 Buildings and Area's Largest Commercial Property
 16 Managers marked Exhibit No. 8.)
 17 Q. Miss DiCicco, are you familiar with the document
 18 that's been placed before you and marked as
 19 Exhibit 8?
 20 A. I've seen it.
 21 Q. What is this?
 22 A. Let me just take a moment.
 23 It's a list of companies and I see in
 24 the corner it says "Boston Business Journal" so

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1 it's the list that's referred to by Paul Crowley
 2 in that letter. In that memo.
 3 Q. In the memo that's been marked as Exhibit 7?
 4 A. Correct.
 5 Q. Okay. What is the difference between JH 1235 and
 6 JH 1236?
 7 A. It seems to be geographic. Where it says "ranked
 8 by square feet by property managed within
 9 Interstate 495" on 1236 and the other one just
 10 says "Area's largest office buildings ranked by
 11 square feet."
 12 Q. So JH 1235 lists the largest real estate firms
 13 and JH 1236 lists the largest commercial property
 14 management companies; is that right?
 15 MR. FEEHERRY: Objection.
 16 Q. Or JH -- strike that. JH 1235 lists the area's
 17 largest office buildings and JH 1236 lists the
 18 largest commercial property management companies;
 19 is that correct?
 20 A. That's what the titles say, yes.
 21 Q. Okay. Is this your handwriting throughout JH
 22 1236?
 23 A. I know the bottom is my handwriting. The last --
 24 those three written words are my handwriting.

1 Q. But the -- are those your markings next to the
2 listed companies? Looks like a star.
3 A. Yeah. I don't recall.
4 Q. Okay. Do you know what the markings next to the
5 list of firms on JH 1236 signify?
6 A. I don't recall exactly.
7 Q. Do you know why they were marked?
8 A. Because they -- I presume it was they had
9 significance to whoever did the marking and I
10 mean, I can -- I think they were the -- let's
11 see.
12 That they were marked as perhaps the
13 best matches or the companies that were most
14 relevant.
15 Q. And you're referring to Exhibit 7?
16 A. I am.
17 Q. Okay. What do the words on the bottom of page JH
18 1236 signify?
19 A. Additional companies.
20 Q. Companies in addition to the companies marked
21 with stars?
22 A. I believe they're companies in addition to the
23 list.
24 Q. At the top where it says in someone's handwriting

1 A. I did not.
2 Q. Are you aware if anyone did?
3 A. I believe -- I think that Peter Mongeau talked
4 with Hewitt on this matter.
5 Q. With respect to the sale of the Tower complex,
6 what was your role, if any, during the bidding
7 process?
8 A. No role during the bidding process.
9 Q. Do you know what criteria Hancock was looking for
10 in bids from prospective purchasers?
11 A. No.
12 Q. Are you aware if there were any discussions prior
13 to the sale of the Tower complex with respect to
14 the impact that the sale would have on specific
15 business units at Hancock?
16 Would you like me to repeat that
17 question?
18 A. Mm-hmm.
19 Q. Are you aware if there were any discussions to
20 the best of your knowledge prior to the sale of
21 the Tower complex with respect to the impact that
22 the prospective sale would have on specific
23 business units at Hancock?
24 A. I am aware that there was some discussion about

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1 -- I can't tell if that's John or Joan. Do you
2 know who this is referring to?
3 A. I believe it's John Heavey's handwriting and it's
4 "Joan."
5 Q. Okay. Again, what was the significance of this,
6 of you being provided with a copy of the area's
7 largest commercial property managers?
8 A. It was in response to the E-mail I sent asking
9 for information on a list of companies within the
10 industry.
11 Q. The property management industry?
12 A. Correct.
13 Q. Okay. Did you ever contact any of the companies
14 listed on JH 1236 to inquire as to what benefits
15 they were offering their employees?
16 A. No.
17 Q. Did anyone at Hancock that you are aware of
18 contact any of the companies listed on JH 1236 to
19 inquire as to what benefits they were offering
20 their employees?
21 A. I don't believe so.
22 Q. Did you ever provide Hewitt with a list of
23 companies within the industry that could be used
24 for the purpose of benchmarking certain benefits?

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1 the impact that the sale of the building might
2 have on services provided by certain areas within
3 John Hancock.
4 Q. Anything with respect to specific business units
5 within John Hancock?
6 A. The work units within the real estate operations
7 department.
8 Q. Yes, there were?
9 A. There were. And so it would be with reference to
10 those work units.
11 Q. Okay. What discussions, if any, were there
12 regarding Daniel Joyce's business unit?
13 MR. FEEHERRY: Objection. You may
14 answer.
15 A. I don't -- I mean, I was not privy to any
16 specific discussions.
17 Q. Were you aware of any general discussions that
18 were going on with respect to the impact that the
19 sale of the Tower complex would have on Joyce's
20 business unit?
21 MR. FEEHERRY: Objection. You may
22 answer.
23 A. It was my understanding that John Hancock during
24 the process with potential investors made it

1 Q. Okay. Do you recall during what period of time
2 these conversations took place?
3 A. Post the announcement of the sale and up until
4 some point before they decided upon their final
5 benefit package.
6 Q. Did you have any discussions with any Beacon
7 employee regarding Hancock associates' census
8 data?
9 A. I didn't have any discussion. I provided
10 information and I believe I provided it through a
11 third party that they had engaged to work on
12 their benefit design.
13 Q. But you don't recall having any discussions
14 regarding the data that you had provided to them?
15 A. No. Actually, there was someone else in the HR
16 department who had those conversations.
17 MR. ROBBINS: Can you mark this as
18 Exhibit 9, please?
19 (5/5/03 letter marked Exhibit No. 9.)
20 Q. Miss DiCicco, are you familiar with the document
21 that's been marked as Exhibit 9?
22 A. I've seen it.
23 Q. What is it?
24 A. It's an offer letter from Beacon Capital Partners

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1 Management to -- an offer of employment letter
2 from Beacon Capital Partners Management to Daniel
3 Joyce.
4 Q. Did Hancock know that Beacon would be sending out
5 offer letters on May 5, 2003?
6 A. I can say -- we knew they would be sending out
7 offer letters. I don't -- I mean, I see that
8 it's May 5th but I didn't recall that that was
9 the exact date.
10 Q. Right. But at some point prior to May 5th, was
11 Hancock essentially put on notice that offer
12 letters from Beacon were going to be distributed
13 to Hancock employees?
14 A. Yes.
15 Q. Do you recall when in relation to May 5th Hancock
16 was notified that offer letters would be
17 forthcoming from Beacon?
18 A. I don't recall the exact timing.
19 Q. Are you aware if anyone at Hancock had knowledge
20 of the substance of the offer letters prior to
21 May 5, 2003?
22 A. The offer letters are signed by people who were
23 Hancock -- John Durnan was a Hancock employee at
24 the time that this offer letter was written. He

1 was going to be a Beacon Capital Partners
2 employee and so there were people like John
3 Durnan I know were aware of it because they
4 signed the documents.
5 Q. Who does John Durnan report to?
6 MR. FEEHERRY: Did?
7 A. At what point in time?
8 Q. Who did John Durnan report to at this time, May
9 5, 2003?
10 A. Paul Crowley.
11 Q. Okay. Did John Durnan draft this offer letter
12 that's been marked as Exhibit 9?
13 A. I don't know.
14 Q. Are you aware of anyone who assisted in the
15 drafting of the document that's been marked as
16 Exhibit 9 or any documents similar to a document
17 like Exhibit 9?
18 A. I don't know.
19 Q. What was John Durnan's position at Hancock on May
20 5, 2003?
21 A. I don't recall his exact title but he was the
22 senior manager reporting to Paul Crowley of
23 several work units within the real estate
24 operations department.

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1 Q. Okay. Was Hancock aware that specific
2 information regarding Beacon's employee benefits
3 package was not included in the offer letter
4 dated May 5th?
5 A. Hang on, please.
6 Yes. Certain members of Hancock were
7 aware of that.
8 Q. Were they aware of that prior to May 5, 2003?
9 A. Yes.
10 Q. Do you recall if Beacon had a benefits package in
11 place by May 5, 2003?
12 A. My best recollection is that it was not -- they
13 were working on it at that point in time.
14 Q. Is it your understanding that Beacon was asking
15 these selected Hancock employees to accept offers
16 without having knowledge as to the specifics of
17 Beacon's benefits package?
18 MR. FEEHERRY: Objection. You may
19 answer.
20 A. This document indicates that they needed to reply
21 by May 16th. And at the time that this document
22 was sent out, it says that additional information
23 would be provided shortly.
24 Q. Okay. Are you aware if that information was

1 that benefits would be assessed based on
 2 normative data?
 3 A. Sorry. I just need to read this document.
 4 Q. Please do.
 5 A. This document was a working document, as we
 6 brainstormed ideas about how to do things and
 7 what we would be considering. It was developed
 8 prior to the actual work that Peter did. It gave
 9 us guidelines. Guidelines are not specifics.
 10 They are approaches to things.

11 Ultimately, Peter took this approach
 12 and I rely -- using normative data and the source
 13 documents that he used. And I rely on his
 14 expertise in this regard.

15 MR. ROBBINS: I just want to make sure
 16 I got an answer to the question that I put forth.
 17 Can you repeat the question that I put on the
 18 record?

19 (Question read.)

20 A. The guidelines committee developed guidelines and
 21 the actual assessment was done by Peter Mongeau
 22 who was a member of the guidelines committee but
 23 he was the one that did the assessment. And so
 24 if your question is if the guidelines committee

1 Q. But with respect to the criteria for how to
 2 determine whether a benefit offering was to be
 3 deemed competitive, does this E-mail from Lisa
 4 Blake indicate to you that JH 1431 represents the
 5 finalized understanding of how to interpret
 6 competitive benefit offerings?

7 MR. FEEHERRY: Objection.

8 A. It was the last document that we worked on, I
 9 think, around the guidelines, which are just
 10 that. Guidelines.

11 Q. In fact, she says, "The only thing left to
 12 finalize was how we were going to determine
 13 mileage," correct?

14 MR. FEEHERRY: Objection.

15 A. "To finalize our working paper."

16 MR. FEEHERRY: Thank you.

17 Q. Correct. But she says the only thing left to
 18 finalize was how we were going to determine
 19 mileage, correct?

20 A. That's a sentence within a two-sentence statement
 21 that talks about that we never finalized the
 22 working paper and that there was one more thing
 23 to work on on a working paper --

24 Q. Mm-hmm.

1 made a determination to use normative data, the
 2 answer is no.

3 However, Peter was the one who did the
 4 analysis and is the expert and he did the
 5 analysis based on the data that was available to
 6 him at the time.

7 Q. Prior to conducting the assessment, did Peter
 8 contact any members of the guidelines committee
 9 to inform the guidelines committee that he was
 10 going to be straying from the guidelines that had
 11 been previously set forth by the guidelines
 12 committee and applying normative data?

13 MR. FEEHERRY: Objection.

14 A. Not that I recall.

15 MR. FEEHERRY: You may answer.

16 A. Not that I recall.

17 Q. What's been marked as JH 1431, is this your
 18 understanding of the final criteria or definition
 19 of competitive benefit offerings as it would be
 20 applied to competitive benefit assessment
 21 analyses?

22 MR. FEEHERRY: Objection.

23 A. I believe these are the five components we were
 24 going to be looking at for competitive benefits.

1 A. -- which is --

2 Q. Are you aware of any subsequent -- strike that.
 3 Are you aware of any document looking at the
 4 elements of the comparable job provision that
 5 postdates what's been marked as Exhibit 15?

6 A. I don't know. I'm not aware -- I don't recall
 7 that I'm aware of it.

8 Q. Did you receive any other feedback other than
 9 from Daniel Joyce -- strike that. Did you
 10 receive any feedback from Hancock employees other
 11 than Daniel Joyce following the distribution of
 12 your May 30th letter?

13 A. Could you define "feedback" for me?

14 Q. Did you receive any communications from any
 15 Hancock employees in response to the May 30th
 16 letter, other than from Daniel Joyce?

17 A. I do not recall if I personally received any
 18 communications.

19 Q. Would that be something -- would such
 20 communications be the type that you would keep in
 21 a file in your office?

22 A. Yes.

23 Q. Do you recall if you produced that file to your
 24 attorneys?

Moloney Dep. Tr.

Volume: I
Pages: 1 to 47
Exhibits: 1 to 10

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

* * * * *

DANIEL JOYCE, Individually
and on behalf of a class of
others similarly situated,
Plaintiff,

vs.

Civil Action No.
05-11428 WGY

JOHN HANCOCK FINANCIAL SERVICES,
INC., SEVERANCE PAY PLAN and
JOHN HANCOCK FINANCIAL SERVICES,
INC., as Administrator and
Fiduciary of the John Hancock
Financial Services, Inc.,
Severance Plan,
Defendants.

* * * * *

PURSUANT TO THE MUTUAL CONFIDENTIALITY AGREEMENT

DEPOSITION OF THOMAS E. MOLONEY, a
witness called on behalf of the Plaintiffs, taken
pursuant to the applicable provisions of the Federal
Rules of Civil Procedure before Cynthia A. Powers,
Shorthand Reporter and Notary Public in and for the
Commonwealth of Massachusetts, at the offices of John
Hancock Financial Services, Inc., 200 Clarendon
Street, Boston, Massachusetts, on Tuesday, June 20,
2006, commencing at 10:13 a.m.

* * * * *

KACZYNSKI REPORTING
72 Chandler Street, Suite 3
Boston, Massachusetts 02116
(617) 426-6060

1 A. I have no recollection one way or the
2 other whether it was or wasn't used.

3 Q. There was an outsourcing of the IT
4 group at one time to IBM; is that correct?

5 MR. FEEHERRY: Objection. You may
6 answer.

7 A. Yes, there was.

8 Q. Were you involved in that?

9 A. Only peripherally.

10 Q. Do you know whether or not an
11 outsourcing contract was signed in that context?

12 A. I don't remember all the legal
13 documents. I didn't do the legal part of that
14 transaction or anything else.

15 Q. Do you remember any discussion
16 whatsoever, Mr. Moloney, about whether or not any
17 business unit would be outsourced to Beacon in the
18 context of the sale of the tower complex?

19 A. I don't have -- as I said, I don't
20 have any recollection one way or the other. I go
21 back to my basic premise on the documents and
22 everything else.

23 Q. Were you one of the people that had
24 conversations with Beacon about hiring the people or

1 memory.

2 Q. Were they kept by John Hancock?

3 A. Some of them would have been. I
4 don't -- I couldn't tell you who or what, and they
5 probably wouldn't have gotten an offer because we
6 were keeping them anyways, not because they didn't
7 get an offer. That would be kind of my recollection
8 of kind of the high level piece of it, but --

9 Q. Do you remember at a high level people
10 in the real estate operations division who neither
11 got an offer from Beacon nor kept their jobs at
12 Hancock?

13 A. I don't remember the names of
14 individuals or anything else.

15 Q. Conceptually did that happen?

16 A. I couldn't tell you because I can't go
17 through -- you know, I haven't got a recall of that
18 one way or the other.

19 Q. I'm not asking you to speculate. I'm
20 asking if you have a memory.

21 A. I have no recall one way or the other.

22 Q. Are you aware of any outsourcing
23 contracts that John Hancock has signed in the past,
24 say, ten years?

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1 some of the people from the real estate operations
2 division?

3 A. I would have had discussions with them
4 on some of the people.

5 Q. Do you recall with whom you spoke
6 about that issue?

7 A. It probably would have been Fred
8 Siegel at a very high level and everything else and
9 then some of his operating folks. I don't remember
10 the names of them, but --

11 Q. Okay. Do you remember any of the
12 conversations enough to talk about them in
13 deposition?

14 A. It would have been only at a very high
15 level about the, you know, the critical need for
16 hiring some of the people because of the complex
17 nature of this building; the glass curtain walls, the
18 need for HVAC, the security systems and all, not only
19 for the tower but also for the two other buildings
20 and as well as the garage operations.

21 Q. There were people that did not get an
22 offer from Beacon in the real estate operations
23 division; is that consistent with your memory?

24 A. That would be consistent with my

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1 MR. FEEHERRY: Objection. You may
2 answer.

3 A. Yeah, there would have been one
4 outsourcing, I think -- I don't know. I have to go
5 back and look. I don't remember if our group benefit
6 operations had an out -- no, I don't think it did. I
7 don't remember. I don't think so.

8 Q. Group benefit operation may or may not
9 have been an outsourcing?

10 A. No, I think it was a sale, and I think
11 there was an administration agreement associated with
12 it, but no outsourcing associated with that
13 transaction. I can't think of any others, but there
14 probably were.

15 Q. Just in a general way, can you tell me
16 what type of work the group benefits organization
17 did?

18 A. Yeah, it was our group life and health
19 business that was sold back in '97 or so.

20 Q. Okay. And the company had acquired,
21 the company that acquired that business segment, did
22 they hire the employees from the group benefits --

23 A. Yes.

24 Q. And then did the employees in the

Mongeau Dep. Tr.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11428-WGY

DANIEL JOYCE, Individually and on *
behalf of a class of others *
similarly situated, *
Plaintiff, *
*
v. *
*
JOHN HANCOCK FINANCIAL SERVICES, *
INC., and JOAN M. DiCICCO, *
Defendants. *

PURSUANT TO MUTUAL CONFIDENTIALITY AGREEMENT

DEPOSITION OF PETER J. MONGEAU,
taken pursuant to the applicable provisions of the
Federal Rules of Civil Procedure, before Michelle
Kaczynski, a Registered Professional Reporter and
Notary Public in and for the Commonwealth of
Massachusetts, at the offices of Todd & Weld LLP, 28
State Street, 31st Floor, Boston, Massachusetts, on
Monday, May 22, 2006, at 10:42 a.m.

KACZYNSKI REPORTING
72 CHANDLER STREET, SUITE 3
BOSTON, MASSACHUSETTS 02116
(617) 426-6060

1 A. Will you repeat the question?
 2 Q. Yes. You assessed the competitiveness of
 3 Beacon's benefits package, didn't you?
 4 MR. FEEHERRY: Objection. You may
 5 answer.
 6 A. Yes.
 7 Q. Okay, and in assessing the competitiveness of
 8 Beacon's package, did you rely on Hewitt?
 9 A. Hewitt was one of the sources I used.
 10 Q. And did you rely on normative data?
 11 A. Yes.
 12 Q. Did you rely on anything else?
 13 A. No.
 14 Q. Okay. The normative data that you relied on,
 15 was it the type of normative data that you relied on as
 16 the director of benefits and as VP of HR shared
 17 services?
 18 MR. FEEHERRY: Objection. Form, the
 19 type of.
 20 MR. PETERS: I'll rephrase it.
 21 MR. FEEHERRY: If you can.
 22 Q. And believe me, it will be completely obvious
 23 to you when Mr. Feeherry doesn't want you to answer a
 24 question because he'll say, don't answer that, and then

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1 we'll get into a huge fight on the record. No, let me
 2 ask the question again.
 3 The normative data that you relied on in
 4 assessing the competitiveness of Beacon's benefits, was
 5 it the type of normative data that you had relied on in
 6 the past in your capacity as the director of benefits
 7 or as the VP of HR shared services?
 8 A. It was the same type of information I would
 9 have referred to.
 10 Q. Was it in any way different than the type of
 11 normative data that you had relied on in the past in
 12 making the assessments of competitiveness?
 13 MR. FEEHERRY: Objection. You may
 14 answer.
 15 Q. Other than the obvious, Mr. Mongeau, which is
 16 it related to the year in which you were looking at the
 17 benefits, and so was that data, that normative data
 18 broken down by industry?
 19 A. One of the studies would have had information
 20 broken down by industry.
 21 Q. Is that a study you relied on in making this
 22 assessment?
 23 A. Can I correct an answer?
 24 Q. Certainly.

Page 13 - Page 16

1 A. The study did not have information broken
 2 down by industry. It had a list of companies that
 3 participated in the study that was broken down by
 4 industry. The results were normative, were all
 5 industries considered together.
 6 Q. Okay. Do you recall what study it was?
 7 A. It was -- on this particular?
 8 Q. Yes, sir.
 9 A. For Beacon?
 10 Q. Yes, sir.
 11 A. It was, there were two particular studies,
 12 the Foster Higgins, I don't recall the year, and the
 13 Hewitt salaried survey, I think I have the name
 14 correct.
 15 Q. Okay, and let's take them one at a time.
 16 Let's take the Foster study first. The Foster study
 17 was -- was the Foster study broken down by participants
 18 in the study?
 19 A. Can you clarify the question?
 20 Q. Yes, maybe I should ask you to describe the
 21 study for me rather than endeavor to lead you through
 22 the questions. Tell me in a general way what the study
 23 depicted?
 24 A. The Foster Higgins study is focused on health

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1 benefits nationally, as well as I believe there are
 2 regional breakouts and possibly employer size
 3 breakouts.
 4 Q. Do you have a copy of this at your office?
 5 A. No.
 6 Q. If I wanted to find this study --
 7 MR. PETERS: Do we have this?
 8 MR. ROBBINS: I don't believe we do.
 9 MR. PETERS: Well, we'll look into it.
 10 If we don't have it, we'd like to get it if you've got
 11 it.
 12 MR. FEEHERRY: And we don't. I think --
 13 MR. PETERS: Okay.
 14 MR. FEEHERRY: -- if you ask some more
 15 questions --
 16 MR. PETERS: Right, we'll figure it out.
 17 MR. FEEHERRY: We produced everything
 18 available.
 19 MR. PETERS: Oh, I don't doubt that,
 20 yes, I don't doubt that.
 21 Q. Do you have the Foster Higgins study?
 22 A. No.
 23 Q. What happened to it?
 24 A. I don't recall.

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1 Q. Okay. When is the last time you saw it?

2 A. I don't recall the last time I saw it.

3 Q. It's a study you relied on in the context of

4 evaluating the competitiveness of Beacon's benefits --

5 A. Correct.

6 Q. Okay, and was it printed out?

7 A. Yes.

8 Q. And did you have a file folder where you kept

9 information that pertained to the assessment?

10 A. Yes.

11 Q. And when you produced documents in the

12 context of this case, did you produce that file folder

13 to your attorneys, yes or no?

14 A. No.

15 Q. Did the file folder exist at the time, the

16 file folder that contained information germane to your

17 competitive assessment?

18 A. When I was asked to produce it?

19 Q. Yes.

20 A. I could not find it.

21 Q. What information was contained in that

22 folder; if we were to go and recreate it, what would

23 we, where would we go to find the documents?

24 A. The file could have included notes that I

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1 would have made having reviewed the different materials

2 I've mentioned. There may have been a copy of the plan

3 document, things of that nature. The file wouldn't

4 necessarily have had the studies. The studies could

5 have also been, since they were normative information,

6 they could have simply been somewhere else in my office

7 for reference.

8 Q. Can you give me enough information about this

9 Foster Higgins study that I might with a little effort

10 find it?

11 A. The Foster Higgins firm was acquired by

12 Mercer, and Mercer/Foster Higgins continues to produce

13 that study on an annual basis.

14 Q. This was 2003 this assessment was being made?

15 Your assessment was made when?

16 A. My assessment was in 2004.

17 Q. So was the Foster Higgins study a 2004 study?

18 A. It would have been what was available in

19 2004. Some of these studies report on information, you

20 know, there may be a year lag, for example.

21 Q. Okay, but you relied on the most current

22 information that Foster Higgins had?

23 A. Correct.

24 Q. Okay, and was that information broken down by

1 industry?

2 A. By industry, no.

3 Q. So if you wanted to do an evaluation of the

4 property management industry to see what was

5 competitive in the property management industry, could

6 you rely on the Foster Higgins data to inform that

7 judgment?

8 MR. FEEHERRY: Objection. You may

9 answer.

10 A. I could rely on that information to make a

11 determination as to what's competitive on a normative

12 basis if that, given that I did not have information

13 specific to the industry.

14 Q. Okay. My question is a little different, I

15 think. My question is could you rely on the Foster

16 Higgins data in order to determine whether or not the

17 Beacon benefits were competitive in the property

18 management industry?

19 MR. FEEHERRY: Objection. You may

20 answer.

21 A. I could rely on that information to compare

22 Beacon's benefits to what was normative.

23 Q. Okay, but not specifically the property

24 management industry, only normative, right?

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1 A. As I recall, that's correct.

2 Q. Now, what about the Hewitt studies, how,

3 describe those studies or that study for me, please,

4 and I'm specifically referring to the study that you

5 relied on to help inform your judgment about the

6 competitiveness of the Beacon benefits package?

7 A. That study included information on a number

8 of benefits, not just health, and it again was

9 normative in nature, was of a large group of companies

10 across all industries, and it provided information

11 based on prevalence.

12 Q. Okay, so if you wanted to determine whether

13 or not Beacon's benefits package was competitive within

14 the property management industry, you couldn't get that

15 information from the Hewitt study, is that correct?

16 MR. FEEHERRY: Objection. You may

17 answer.

18 A. The Hewitt study did not include a specific

19 number of property management companies, so the

20 analysis was based on the available normative data.

21 Q. Right, so if you want to specifically

22 evaluate benefits that Beacon offered against the

23 property management industry, you couldn't make that

24 specific analysis, you couldn't undertake that specific

1 specifically from your perspective -- start the
2 question again.

3 At least when it comes to what is
4 comparable job, what you've written in Exhibit 3
5 defines a term that's contained in Exhibit 1, and that
6 term is comparable position, right?

7 MR. FEEHERRY: Objection. You may
8 answer.

9 A. It defines that term.

10 Q. It's not an example, it's a definition,
11 right?

12 MR. FEEHERRY: Objection. You may
13 answer.

14 A. It is a definition for comparable.

15 Q. So that's a definition, but when you discuss
16 up above sale or outsourcing, that's not a definition,
17 that's an example?

18 A. It's a circumstance.

19 Q. A circumstance, and not an exclusive one,
20 right?

21 MR. FEEHERRY: Answer that yes or no,
22 sorry.

23 A. Yes.

24 MR. FEEHERRY: I mean, you've got to

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1 answer it verbally, that's all I meant.

2 Q. Do you know when the summary plan
3 description, Exhibit 11, was given to employees?

4 A. The date on the supplement is December '02,
5 I -- so it would have been about that time.

6 Q. Okay. Was it prior to the ISS outsourcing;
7 in other words, was Exhibit 11 distributed prior to the
8 ISS outsourcing?

9 A. Can I ask for a clarification? When you say
10 outsourcing, do you mean the outsourcing being
11 completed or the outsourcing being, happening?

12 Q. Yes, yes, that's a fair point. Was it prior
13 to the time that John Hancock determined that it would
14 outsource the ISS department?

15 A. I don't believe it was.

16 Q. It was prior to the decision, I'm just trying
17 to get context, and I think you've answered. Before
18 John Hancock determined that they would outsource the
19 IT to IBM, did it supply what we've marked as
20 Exhibit 11 to the people in the IT department?

21 A. These things were occurring at the same,
22 roughly the same time, and I do not recall exactly
23 where things were with the outsourcing and the
24 distribution of this document.

1 Q. Were you involved in any way in the process
2 that led to the sale of the tower complex?

3 A. No.

4 Q. Were you involved in any of the discussions
5 prior to the sale of the tower complex that involved an
6 impact on Hancock's employees, whether or not the sale
7 of the office complex would, tower complex would impact
8 in any way the employees of Hancock?

9 A. My involvement would be with respect to the
10 severance plan and the changes we've discussed.

11 Q. Did you understand that Hancock intended to
12 terminate the employment of the employees who were
13 running the tower complex in the context of its sale of
14 the tower complex?

15 A. It was my understanding that certain
16 employees could be terminated as a result of the sale
17 of the complex.

18 Q. There was no discussion, was there, of
19 keeping on for example a group of employees to manage
20 the office tower complex once it was sold; that was
21 going to be the responsibility of the new owners,
22 managing the property, right?

23 A. I was not close to specific conversations
24 about that.

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1 Q. Okay, and I know we touched upon this this
2 morning, but were you privy to any conversations in the
3 context of the sale of the tower complex about whether
4 the real estate operations department would be
5 outsourced to Hancock?

6 A. I understood that certain employees could be
7 terminated from John Hancock and might also be offered
8 a position with the successor company.

9 Q. I'm interested in conversations that you
10 participated in where the concept of outsourcing
11 Hancock employees was among the things discussed. Do
12 you recall any of those?

13 A. I was told what would be happening, I was not
14 directly involved in those conversations.

15 Q. When you were told about this transaction or
16 prospective transaction, did anyone tell you that there
17 would be an outsourcing of Hancock employees?

18 A. Yes.

19 Q. Who told you there would be an outsourcing of
20 Hancock employees?

21 A. I would have been advised by my manager, Page
22 Palmer.

23 Q. And you recall her using the word
24 outsourcing?

A. I recall that there would be employees terminated and hired by the successor employer, and it was at that time that the terminology outsourcing was being used as well. What she specifically said to me I can't recall.

Q. You don't have a memory of the word outsourcing being used with respect to the real estate operations department, do you, by Page Palmer or anyone else?

A. The specific statement that we would outsource that department I don't recall being said.

Q. Nor do you recall any discussions where the word business unit was used to describe any particular aspect of Hancock's business, do you, and I'm talking about now in the context of the sale of the tower complex?

A. Specific conversations, no.

Q. Generally do you remember the term business unit being discussed in the context of the sale of the tower complex?

A. Within the context of the documents that we've reviewed --

Q. Yes.

A. -- is how I remember it.

A. I was advised that a group of employees would be terminated under the terms of this plan, and I needed to determine to address the comparability issue.

Q. And in the context of doing that, you didn't evaluate whether or not something was a business unit, yes or no?

A. No.

Q. You did not?

A. I did not.

Q. Okay.

(Marked Exhibit 12; Provisions of Severance Plan).

Q. Mr. Mongeau, Exhibit 12 is a document with control numbers JH1403 through 1408. Is this a document that you've seen before?

A. Yes.

Q. Would you describe what it is, please?

A. It is a document; well, some of it is a document that I prepared to address certain provisions of the company's severance plan.

Q. When was it prepared?

A. The document is not dated, but given our conversation this morning I would say the latter part of '02.

Q. And tell me what you remember about those discussions, please, as best you can recall?

A. Not the discussions, I'm saying I -- business unit has been presented in these written materials.

Q. Right, I'm sorry, go ahead. I'm just interested if I haven't interrupted your answer, I'm just interested in what you can remember people saying about that concept. Do you have any memory of anyone saying or discussing what a business unit is in the context of the sale of the tower complex?

A. No specific discussions.

Q. And you don't remember any specific evaluation you made about what a business unit was comprised of in the context of evaluating the competitiveness of Beacon's benefits, correct?

MR. FEEHERRY: Objection. You may answer.

A. In evaluating the competitiveness of the benefits, I was comparing benefits, not dealing with the concept of a business unit.

Q. I understand that. My question is you don't have any memory of undertaking that evaluation; in fact, you didn't, did you?

MR. FEEHERRY: Objection.

Q. In the first page where we have a caption, severance plan, sale of business unit provision?

A. Yes.

Q. What provision are you referring to?

A. The two provisions that are identified at the top of the page is what was being referred to.

Q. The provision, the provisions that are, have bullet points next to them?

A. Yes.

Q. Okay. Do you recognize in the last couple of pages of the document whose handwriting appears, or it's actually the second to last page?

A. Page Palmer's.

Q. Where she writes, our plan provision is unusual, could be an impediment to deal, do you know what she's referring to?

A. The first bullet that we, on the first page of the exhibit is the provision I believe that she's referring to.

Q. Employee in the business unit to be sold have the option to elect severance or to take a job with the buyer?

A. Correct.

Q. And then asterisk says, twenty percent of